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**UNITED STATES BANKRUPTCY COURT
 CENTRAL DISTRICT OF CALIFORNIA**

In re:
 TJBC, LLC, a California limited liability company

CASE NO.: 2:16-bk-19299SK

Debtor(s).

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 8/11/16

Time: 8:30 a.m.

Location: Courtroom 1575, 15th Floor, 255 East Temple Street, Los Angeles, CA 90012

Type of Sale: ☐ Public ☒ Private

Last date to file objections:

7/28/16

Description of Property to be Sold: Please see attached pleading for details. Substantially all of Debtor's personal
property and Restaurant business as a going concern, including liquor license and assignment of real property lease
See attached Notice; Ex.1 (Asset Purchase Agreement); Ex.2 (Lease)

Terms and Conditions of Sale: Please see attached pleading for details.

Free and clear of liens and interests, subject to Bankruptcy Court approval.

No auction. No overbidding.

Proposed Sale Price: \$465,000 with no auction or overbids (please see attached pleading for details)

Overbid Procedure (If Any): _____

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

Sale Hearing: August 11, 2016, at 8:30 a.m.

Courtroom 1575, 255 E. Temple St., Los Angeles, CA 90012

Contact: J.P. Fritz, Esq. - 310-229-1234; JPF@LNBYB.COM

Date: 7/21/16

JOHN-PATRICK M. FRITZ (State Bar No. 245240)
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Proposed Attorneys for Chapter 11
Debtor and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:	) Case No.: 2:16-bk-19299-SK
)
TJBC, LLC, a California limited liability	) Chapter 11 Case
company	) Small Business Case – 11 U.S.C. §101(51C)
)
Debtor and Debtor in Possession,	) NOTICE OF HEARING ON DEBTOR'S
	) MOTION FOR AN ORDER: (1)
	) APPROVING SALE OF
	) SUBSTANTIALLY ALL OF THE
	) DEBTOR'S ASSETS FREE AND
	) CLEAR OF ALL LIENS, CLAIMS AND
	) INTERESTS; (2) APPROVING OF
	) DEBTOR'S ASSUMPTION AND
	) ASSIGNMENT OF UNEXPIRED
	) LEASES AND EXECUTORY
	) CONTRACTS AND DETERMINING
	) CURE AMOUNTS; (3) WAIVING THE
	) 14-DAY STAY PERIODS SET FORTH
	) IN BANKRUPTCY RULES 6004(h)
	) AND 6006(d); AND (4) GRANTING
	) RELATED RELIEF
)
	) <u>Hearing:</u>
	) Date: August 11, 2016
	) Time: 8:30 a.m.
	) Place: Courtroom 1575
	) 255 East Temple Street
	) Los Angeles, California 90012
)
)
)
)

1 **PLEASE TAKE NOTICE** that the Honorable Sandra R. Klein, United States
2 Bankruptcy Judge for the Central District of California (the “Court”) will hold a hearing (the
3 “Hearing”) on August 11, 2016, at 8:30 a.m. in Courtroom 1575 of the United States Bankruptcy
4 Courthouse located at 255 East Temple Street, Los Angeles, California, to consider the *Debtor’s*
5 *Motion for an Order: (1) Approving Sale of Substantially All of the Debtor’s Assets Free and*
6 *Clear of All Liens, Claims and Interests; (2) Approving of Debtor’s Assumption and Assignment*
7 *of Unexpired Leases and Executory Contracts and Determining Cure Amounts; (3) Waiving the*
8 *14-Day Stay Periods Set Forth in Bankruptcy Rules 6004(h) and 6006(d); and (4) Granting*
9 *Related Relief* (the “Motion”) filed by TJBC, LLC, a California limited liability company (the
10 “Debtor”), the debtor and debtor in possession in the above-referenced chapter 11 case.

11 By way of the Motion the Debtor requests entry of an order of the Court: (1) approving
12 the sale (the “Sale”) of substantially all of the Debtor’s assets (the “Purchased Assets”) to All
13 Access Capital LLC (the “Purchaser”) pursuant to 11 U.S.C. § 363(b); (2) approving the Sale of
14 Purchased Assets to Purchaser free and clear of all liens, claims, and interests (the
15 “Encumbrances”) pursuant to 11 U.S.C. § 363(f); (3) authorizing the Debtor to assume its
16 executory contracts and unexpired leases (“Assumed Contracts”), including the Lease (as defined
17 below), pursuant to 11 U.S.C. § 365(a) and (b) and assign them to Purchaser pursuant to 11
18 U.S.C. § 365(f); (4) establishing the cure amounts, if any, payable under the Assumed Contracts
19 and Lease pursuant to 11 U.S.C. § 365(b); (5) authorizing the Debtor to assume the APA as an
20 executory contract conditioned on the Purchaser performing by paying the purchase price to
21 Debtor pursuant to 11 U.S.C. § 365(a); (6) decreeing that the Debtor has made specific
22 performance under the APA by obtaining an order approving the Sale free and clear of liens,
23 claims, interests, and Encumbrances; (7) instructing Purchaser to make specific performance
24 under the APA by paying the Debtor the purchase price; (8) waiving the 14-day stay periods set
25 forth in Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedure (the
26 “Bankruptcy Rules”) to enable the sale to close as quickly as possible; and (9) granting certain
27 other related relief as the Court deems just and appropriate under the circumstances of the case.
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1 A copy of the asset purchase agreement (the “APA”) for the Sale of the Debtor’s assets to
2 Purchaser is attached as Exhibit “1” to the declaration of Travis Lester (the “Lester
3 Declaration”). The real property lease for the premises with common address 829 North La
4 Cienega Boulevard (the “Lease”) between the Debtor, as lessee, and the Becker Living Trust (the
5 “Landlord”), as lessor, is the only unexpired lease or executory contract to be assumed and
6 assigned as part of the Sale. A true and correct copy of the Lease is attached as Exhibit “2” to
7 the Lester Declaration.

8 **NOTICE REQUIREMENTS OF LOCAL RULE 6004-1(C)(3)**

9 Date, Time, and Place of Hearing: The Hearing will be held on August 11, 2016, at
10 8:30 a.m. in Courtroom 1575 of the United States Bankruptcy Courthouse located at 255 East
11 Temple Street, Los Angeles, California.

12 Name and Address of the Proposed Buyer: The proposed buyer is All Access Capital,
13 LLC, with address, care of its counsel, Matthew A. Portnoff, Esq., Manatt, Phelps & Phillips,
14 11355 Olympic Boulevard, Los Angeles, California 90064.

15 Description of Property to Be Sold: A description of the assets to be purchased by
16 Purchaser free and clear of all Encumbrances (defined as the “Purchased Assets”) is set forth in
17 Section 2.1 of the APA. As set forth therein, the Purchased Assets include, but is not limited to,
18 substantially all the assets of the Debtor, equipment, furniture, fixtures, liquor license, good will
19 relating to the Restaurant as a going concern, inventory, licenses, permits, and registrations, and
20 the Lease. The assets excluded from the Sale are those assets defined as the “Excluded Assets,”
21 in Section 2.2 of the APA, which include, but are not limited to, the Debtor’s cash and cash
22 equivalents, bank accounts, non-assignable permits, intellectual property, books and records, the
23 Debtor’s rights arising from the APA, and causes of action, lawsuits, claims, demands, and
24 judgments. As part of the APA and Sale, the Purchaser will assume and pay certain obligations
25 for executory contracts and the Lease, as defined in section 2.3 of the APA. It is anticipated that
26 the Lease will be the only executory contract or unexpired lease to be assumed and assigned as
27 part of the APA. The Debtor asserts that \$34,106.91 (plus \$9,717 for rent due on or about August
28

1, 2016) in back rent and other payments is required to cure the obligations under the Lease for assumption and assignment to the Purchaser.

Terms and Conditions of Sale, Including Price and Contingencies: The sale will be free and clear of all liens, claims, and interests pursuant to 11 U.S.C. § 363(f). The purchase price is \$510,000 (now reduced to \$465,000) cash, and there is no auction, overbidding, or break-up fee because the Debtor has extensively marketed the assets for sale and determined that Purchaser's offer is the best and highest offer. Additionally, because this purchase price is expected to pay off all allowed claims of creditors in full, there is no need to engage in further marketing and bidding procedures in the hope of finding a higher and better offer. There are no contingencies to the Sale.

Free and Clear of Liens, Claims, and Interests: The sale will be free and clear of all liens, claims, and interests pursuant to 11 U.S.C. § 363(f). The Debtor is requesting that the Court approve the Sale free and clear pursuant to each of the five disjunctive subsections of 11 U.S.C. § 363(f)(1) through 363(f)(5). Parties wishing to know the legal basis for the Sale free and clear of all liens, claims, and interests, should read the Motion.

The below-listed table is comprised of information the Debtor discovered in its search of UCC filings against the Debtor with the California Secretary of State and summarizes the secured claims against the Debtor and its estate:

Creditor	Lien Type	Amount
Oak Fire Pizza Company, Inc.	Loan & Security Agreement	\$52,422.06
Sysco Los Angeles, Inc.	UCC-1 Filing	\$0.00
Employment Development Dept.	Tax Lien	\$16,865.00
Board of Equalization	Tax Lien	\$10,506.00
TOTAL		\$79,793.06

Greg Morris, an individual, asserts that he is the assignee of the Oak Fire Pizza Company note and security agreement, but there is no filing with the Secretary of State to prove so. Morris alleges that he is owed \$106,324.07 for the secured Note, which (if allowed) would bring the total secured claims to \$133,695.07. Amongst other reasons, the Debtor contends that the Court is permitted to, and should, approve the Sale of the Purchased Assets free and clear of

all liens and secured claims pursuant to 11 U.S.C. § 363(f)(3) because the sale proceeds of \$510,000 (now reduced to \$465,000) are greater than the aggregate amount of secured claims, even at the higher figure of \$133,695.07. Furthermore, the Debtor contends that the Court is permitted to, and should, approve the Sale of the Purchased Assets free and clear of all liens, claims, encumbrances, and interests, for any and all disputed claims pursuant to 11 U.S.C. § 363(f)(4), particularly Morris' claims because they are the subject of bona fide disputes.

Subject to Higher and Better Bids: The Sale is not subject to overbids or auction. The purchase price is \$510,000 (now reduced to \$465,000) cash, and there is no auction, overbidding, or break-up fee because the Debtor has extensively marketed the assets for sale and determined that Purchaser's offer is the best and highest offer. Additionally, because this purchase price is expected to pay off all allowed claims of creditors in full, there is no need to engage in further marketing and bidding procedures in the hope of finding a higher and better offer. There are no contingencies to the Sale.

Consideration to the Estate, Costs, Fees, and Commissions: The Debtor has not employed a broker, financial advisor, or investment banker prepetition or post-petition. The Debtor's estate will be the sole recipient of the Sale proceeds in the amount of \$510,000 (now reduced to \$465,000) except for escrow and traditional closing costs. Certain portions of the Sale proceeds are designated for escrow, as set forth in section 4.1 and 4.2 of the APA, specifically, \$35,000 for the liquor license escrow agent and \$100,000 for an indemnification escrow to cover liens and disputed claims by Greg Morris.

Good Business Judgment Supports the Sale and Purchase Price: Prior to the bankruptcy filing, the Debtor explored multiple options for a recapitalization of the company and a sale as a going concern over a four-month period. The Purchaser's offer was the best and highest offer, and it is sufficient to pay all creditors in full. Based on the amount of the purchase price, the Debtor determined that the price was fair and reasonable and the best result under the circumstances. The Debtor would have consummated the Sale outside of bankruptcy for the benefit of all of its creditors except that Morris has litigated with the Debtor and interfered in the process to the point that a section 363(f) sale became necessary to effectuate the Sale.

1 Unfortunately, the purchase price has been reduced from \$510,000 to \$465,000 since the
2 Petition Date. Morris' litigation tactics caused some delay and ultimately required the Debtor to
3 file for bankruptcy to seek a section 363 sale free and clear of Morris' disputed liens and claims.
4 From the signing of the APA on May 10, 2016, all the way up to the Petition Date, the purchase
5 price remained at \$510,000. It was only after the Debtor filed bankruptcy that Purchaser
6 negotiated down the price to \$465,000. Although the Debtor was not under any obligation to do
7 so, the Debtor determined in its reasonable business judgment to acquiesce to the reduction
8 because the proceeds would still pay creditors in full and it would avoid the time, expense, and
9 uncertainty of litigation with Purchaser. Although the purchase price should be \$510,000, the
10 proposed reduced price of \$465,000 approximates the fair market value of the Purchased Assets
11 and should be approved by the Court, in large part because it will pay all allowed claims of
12 creditors.

13 Consequences of the Sale: As a consequence of the Sale, the Debtor will part with
14 substantially all of its assets needed to operate a business. Accordingly, it is highly unlikely that
15 the Debtor will be able to restart restaurant operations to generate future income. Nonetheless,
16 the Debtor believes that the Sale is in the best interest of the estate. The Debtor no longer has an
17 operating business, and so a sale of business as a going concern, such as this proposed Sale, is
18 the best opportunity for creditors to realize a return on their claims. Without the Sale, the Debtor
19 will have a very difficult time restarting operations to generate cash flow to fund its own
20 reorganization. The Sale is absolutely the Debtor's best option under the circumstances. The
21 Debtor therefore submits that its proposed Sale is justified by sound business purposes.

22 No Commissions Paid at this Time: There are no commissions. Customary escrow costs
23 are expected. Escrow is being handled by Commerce Escrow, 1055 Wilshire Blvd., Suite 1000,
24 Los Angeles, California 90017.

25 Taxes from Sale: All transfer, documentary, sales, use, stamp, registrations and other
26 such taxes and fees applicable to, imposed upon or arising out of the sale shall be borne by the
27 Debtor and paid from its cash and/or the sale proceeds.

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Response and Opposition Deadline: Any response or opposition to the Motion must be made in writing and filed with the Court and served on the Debtor and all parties requesting special notice by no later than July 28, 2016. The failure to file and serve a timely written response may be deemed by the Court to be consent to granting the relief requested in the Motion.

ADDITIONAL INFORMATION

PLEASE TAKE FURTHER NOTICE the Debtor filed its voluntary chapter 11 bankruptcy petition on July 13, 2016 (the “Petition Date”). The debtor continues to manage its business and financial affairs and administer its estate as a debtor in possession pursuant to 11 U.S.C. §§ 1107 and 1108. No committee of unsecured creditors has been formed, and no trustee has been appointed.

The Debtor is a limited liability company formed in 2012 for the purpose of operating a restaurant (the “Restaurant”). In June 2012, the Debtor acquired the Lease space with furniture, fixtures, and equipment from Oak Fire Pizza Company, Inc. (“Oak Fire”) and operated the Debtor’s restaurant operations to early January 2016. The Debtor operated the Restaurant as a restaurant and bar establishment for the first 18 months as “Fatty’s Public House,” and had success, in large part due to its location on La Cienega, its liquor license, its conditional use permit, which allowed it to serve alcoholic beverages until 2:00 a.m. nightly, seven nights a week. Unfortunately, one resident in the neighborhood filed so many noise complaints (many of which were completely without merit and which the Debtor strongly disputed), that the Debtor was forced to change its business model for the Restaurant. The Debtor did a remodel and switched to a food-oriented, rather than drink-oriented, menu, and reopened as “Open Air Kitchen + Bar.” Unfortunately, the Restaurant’s new menu and settings never caught on with clientele, and soon the Debtor could not generate the cash flow necessary to pay its debts as they came due.

One of the larger debts that the Debtor could not pay as it was coming due, was its debt service to Oak Fire. The Debtor had acquired the Restaurant, Lease, and furniture, fixture and equipment from Oak Fire for a purchase price of \$525,000, of which \$300,000 was cash and

1 \$225,000 was financed with a promissory note (the “Note”) from the Debtor to Oak Fire
2 secured by substantially all of the Debtor’s personal property pursuant to a security agreement
3 (the “Security Agreement”). Oak Fire filed a UCC financing statement reflecting its lien with
4 the California Secretary of State on or about July 3, 2012. The Note required modest monthly
5 payments and a balloon payment of over \$100,000 in June 2015. The Debtor knew that it could
6 not make the balloon payment and, thus, engaged Oak Fire in discussions for a forbearance
7 and/or modification of the Note. Greg Morris, a principal of Oak Fire, asserted to the Debtor
8 that Oak Fire had assigned the Note and Security Agreement to him in his individual capacity,
9 though no formal proof of the assignment has been tendered.

10 The Debtor and Morris entered into a forbearance agreement (the “Forbearance” or
11 “Forbearance Agreement”) in May 2015, but a controversy and dispute arising from the
12 Forbearance would soon grow to such unreasonable proportions as to force the filing of this
13 bankruptcy case. Morris agreed to forbear from enforcing the Note against the Debtor for a
14 six-month period and extended the maturity date of the Note to December 6, 2015. The Debtor
15 agreed to make an upfront immediate partial payment of \$57,000 (the “Partial Payment”), of
16 which \$3,000 would pay Morris for his expenses in negotiating the Forbearance, and \$54,000
17 would pay down the outstanding balance on the Note. Additionally, the Debtor was to make
18 monthly installment payments of \$5,448 each commencing on July 6, 2015, and the further
19 additional sum of \$13,000 in each of September and December, for total payment over the six-
20 month period of \$58,688.

21 The Debtor made monthly payments under the Forbearance Agreement for July and
22 August 2015 but defaulted in September as the Restaurant’s financial performance failed to
23 improve. Within the first month of default, on or about September 25, 2015, Morris filed a
24 lawsuit in Los Angeles Superior Court (the “State Court Suit”) against the Debtor for breach of
25 contract and the entire balance of the Note in excess of \$106,324.07 without any credit for the
26 \$57,000 payment made in June 2015 or the two monthly installment payments of \$5,448 each in
27 July and August 2015.

28 The Debtor’s business struggled on through the end of December 2015, then the

1 Restaurant closed in January 2016, as the Debtor could no longer pay its rent and payroll as they
2 were coming due. From January to April 2016, the Debtor's managers focused efforts on new
3 capital raises for a fresh restaurant launch for the Debtor or a sale of the Debtor's assets for the
4 highest price. In late March 2016, the Debtor was able to find a buyer for its business at a
5 purchase price sufficient to pay off all of the Debtor's creditors. While all other creditors and
6 the Landlord are prepared to move forward with the proposed Sale to the Purchaser, Morris has
7 blocked the Sale with frivolous claims to extort more money from the Debtor. Specifically, in
8 June 2016, Morris amended his complaint in the State Court Suit to assert a new claim of
9 damages for \$250,000 and allege fraud, fraudulent conveyance, and conversion (amongst other
10 things) for a laundry list of allegedly missing old and worn-out furniture, fixtures, and
11 equipment at the Restaurant location prior to when the Debtor took possession in 2012
12 (collectively, the "Morris Tort Claims"). The Debtor made settlement offers to Morris and, in
13 June 2016, attended a full day of voluntary mediation but without any success.

14 In the meantime, the Purchaser was growing impatient with the delay caused by Morris'
15 obfuscation, and the Debtor was facing the prospect that it could lose this tremendously
16 beneficial Sale, which would otherwise pay off all creditors' claims in full, including the
17 undisputed portion of the Note to Oak Fire/Morris. After having attempted multiple settlement
18 offers with Morris to no avail and the Purchaser losing patience, the Debtor determined in its
19 reasonable business judgment that filing for chapter 11 bankruptcy to consummate the Sale by
20 way of section 363(f) of the Bankruptcy Code would be in the best interest of the creditors and
21 its estate. Accordingly, on July 13, 2016, the Debtor filed a voluntary chapter 11 petition. The
22 Debtor continues to manage its business and financial affairs and administer its estate as a
23 debtor in possession. On July 21, 2016, the Debtor filed this Motion to consummate the
24 proposed Sale to Purchaser as quickly as possible.

25 Prepetition, the Debtor engaged in substantial recapitalization efforts and marketing of
26 its assets for sale over a period of many months. Purchaser's offer was the best and highest
27 offer. Furthermore, because Purchaser's sale price of \$510,000 (now reduced to \$465,000), all
28 cash, is sufficient to pay all creditors in full, the Debtor submits that it is in the best interest of

1 the estate to approve the Sale without further marketing, auction, or overbid. The Debtor's
2 equity investor members will not realize a full recovery on their investments, but they have
3 consented to the Sale in recognition of the fair and reasonable price and best outcome for all the
4 stakeholders of the estate with valid claims and interests.

5 The Debtor's total liabilities are estimated to be approximately \$340,000, comprised of:
6 (i) \$79,793.06 of secured claims (including what the Debtor believes is owed on the Note
7 allegedly assigned to Morris from Oak Fire); (ii) \$20,136.00 of priority unsecured claims to
8 taxing authorities; and (iii) \$237,500.88 of general unsecured claims (excluding Morris' alleged
9 disputed, unliquidated pending litigation claim in the amount of \$250,000 for fraud, fraudulent
10 conveyance, and conversion). According to the Debtor's analysis, none of the debt is disputed
11 except for the claims asserted by Morris. The general unsecured claims analysis includes the
12 prepetition past-due rent owing to the Landlord on the Lease. Attached as Exhibit 3 to the
13 declaration of John-Patrick M. Fritz, Esq., is a true and correct copy of a UCC lien search report
14 and UCC statements on file with the California Secretary of State against the Debtor. All valid
15 secured claims will be paid in full from the Sale proceeds. The Debtor agrees to escrow up to
16 \$100,000 for the disputed secured claim asserted by Morris for the secured Note pending
17 resolution of the dispute.

18 In connection with the Sale, and as part of this Motion, the Debtor seeks to assume the
19 Lease and assign it to the Purchaser. The Debtor seeks a determination from the Court of the
20 cure amount for assumption of the Lease pursuant to 11 U.S.C. § 365(b), which the Debtor
21 asserts should be in the amount of \$34,106.91 (plus \$9,717 for rent due on or about August 1,
22 2016). The Debtor also seeks an order of the Court such that if the Court approves the Sale, the
23 Court also authorize the Debtor to assume the APA with Purchaser as an executory contract
24 pursuant to 11 U.S.C. § 365(a), decree that the Debtor has made specific performance on the
25 APA by way of obtaining the order approving the Sale (and signing any ancillary documents
26 necessary to consummate the Sale), and authorize and instruct the Purchaser to make specific
27 performance under the APA by paying the purchase price of \$510,000 (now reduced to
28 \$465,000) to the Debtor.

1 **PLEASE TAKE FURTHER NOTICE** that in connection with the Sale Motion, the
2 Debtor is requesting an order of the Court decree that the cure amounts set forth in the Motion
3 and Lester Declaration are the cure amounts which the Debtor or Purchaser must pay to the other
4 parties on the Lease and other executory contracts and unexpired leases that Purchaser may elect
5 to have the Debtor assume and assign to Purchaser at the Closing to enable the Debtor to satisfy
6 the cure requirements of Section 365(b)(1)(A) of the Bankruptcy Code. The Debtor asserts that
7 \$34,106.91 (plus \$9,717 for rent due on or about August 1, 2016) is the cure amount required for
8 the Lease. The Debtor therefore submits that any party that fails to file a timely objection to the
9 Sale Motion should be deemed to have consented to the Debtor's proposed cure amount and be
10 forever barred from challenging the Debtor's proposed cure amount. In connection with this
11 Sale Motion, the Debtor is requesting an order of the Court providing that as of the Closing, the
12 Lease all executory contracts and unexpired leases that Purchaser may elect to have the Debtor
13 assume and assign to Purchaser shall be assumed by the Debtor and assigned to Purchaser
14 effective as of the Closing.

15 **PLEASE TAKE FURTHER NOTICE** that the bases for the relief requested in the
16 Motion are the notice of the Motion, the memorandum of points and authorities, the declaration
17 of Travis Lester, the declaration of John-Patrick M. Fritz, Esq., and the declaration of Shahrokh
18 Sheik, Esq. annexed to the Motion, sections 105, 363, and 365 of title 11 of the United States
19 Code, sections 101 *et seq.* (the "Bankruptcy Code"), Rules 6004, 6006 and 9013 of the Federal
20 Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 6004-1(c) and 9013-1 of
21 the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of
22 California (the "Local Rules").

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1 **PLEASE TAKE FURTHER NOTICE** that the Debtor has set the Motion for hearing
2 on regular 21-day notice under the Local Rules. Pursuant to Local Rule 9013-1(f), any response
3 or opposition to the Motion must be made in writing and filed no later than 14 days prior to the
4 hearing on the Motion. Pursuant to Local Rule 9013-1(h), the failure to file a timely written
5 response may be deemed by the Court to be consent to the granting of relief requested in the
6 Motion.

7 Dated: July 21, 2016

TJBC, LLC

8
9 By: /s/ John-Patrick M. Fritz
10 JOHN-PATRICK M. FRITZ
11 LEVENE, NEALE, BENDER, YOO
12 & BRILL L.L.P.
13 Proposed Attorneys for Chapter 11
14 Debtor and Debtor in Possession
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Exhibit 1

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is entered into as of May 10, 2016, by and between All Access Capital LLC, a California limited liability company (“Buyer”), and TJBC, LLC, a California limited liability company (“Seller”). Buyer and Seller are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

A. Seller owns that certain food and beverage business currently known as “Open Air Kitchen,” located at 827-829 La Cienega Blvd., Los Angeles, California, consisting of a bar and restaurant facility that is not currently in operation, a leasehold interest for the business premises and various other tangible and intangible assets, as more particularly described in this Agreement (collectively, the “Restaurant”); and

B. Seller desires to sell, convey, transfer and assign, and Buyer desires to purchase from Seller the Purchased Assets (as hereinafter defined), on the terms and subject to conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, agreements and conditions hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. For purposes of this Agreement, the following definitions apply:

“Action” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“Affiliate” means with respect to any Person, any Person that controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

“Agreement” has the meaning set forth in the prefatory paragraph of this Agreement.

“Allocation Schedule” has the meaning set forth in Section 4.3 of this Agreement.

“Ancillary Agreements” means the Assignment and Assumption of Lease Agreement, the Bill of Sale and Assignment Agreement and the Liquor License Transfer Agreement.

“Assignment and Assumption of Lease Agreement” has the meaning set forth in Section 7.9 of this Agreement.

“Assumed Contracts” has the meaning set forth in Section 2.1(f) of this Agreement.

“Assumed Liabilities” has the meaning set forth in Section 2.3 of this Agreement.

“Assumed Prepaid Expenses” has the meaning set forth in Section 2.1(e) of this Agreement.

“Assumed Lease” means that certain real property lease between Seller, as tenant, and Bernard B. Becker and Marleen G. Becker, individually, and as Trustees of Becker Living Trust, as Landlord, with respect to the Leased Property, pursuant to those certain lease documents, guaranties and any amendments thereto.

“Bill of Sale and Assignment Agreement” means, collectively, an executed bill of sale, instruments of assignment and other conveyance documents, dated the Closing Date, transferring to Buyer all right, title and interest of Seller in and to any of the Purchased Assets, together with possession of the Purchased Assets, in the form attached hereto as Exhibit A.

“Business Day” means any day, other than a Saturday or Sunday and other than a day that banks in the United States are generally authorized or required by Law to be closed.

“Buyer” has the meaning set forth in the prefatory paragraph of this Agreement.

“Buyer Indemnified Parties” has the meaning set forth in Section 11.1 of this Agreement.

“Buyer Losses” has the meaning set forth in Section 11.1(d) of this Agreement.

“Claims Period” means the time period during which a claim for indemnification may be asserted under this Agreement by an Indemnified Party.

“Closing” has the meaning set forth in Section 10.1 of this Agreement.

“Closing Date” has the meaning set forth in Section 10.1 of this Agreement.

“Closing Payment” has the meaning set forth in Section 4.1(b) of this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

“Confidential Information” means proprietary, non-public ideas, information, knowledge, data and discoveries relating primarily to the Restaurant, the Purchased Assets or the transactions contemplated hereby. Notwithstanding the foregoing definition, Confidential Information shall not include (i) information that becomes generally available to the public other than as a result of disclosure by Seller in violation of this Agreement; (ii) information which is disclosed to Seller in good faith by a third party who, to the Knowledge of Seller, is not under any obligation of confidence to Buyer at the time the third party discloses such information; or (iii) information relating to an Excluded Asset.

“Consent” means each consent, approval, notice or filing listed on Schedule 5.3.

“Contract” means any contract, agreement, purchase order, warranty or guarantee, license, use agreement, lease (whether for real estate, a capital lease, an operating lease or other), instrument or note, in each case that creates a legally binding obligation, and in each case whether oral or written.

“Defense” means any legal defense (which may include related counterclaims) reasonably conducted by reputable legal counsel of good standing selected with the consent of the Indemnified Party (which consent will not be unreasonably withheld).

“Deposit” means the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) to be deposited by Buyer into Escrow within Two (2) Business Days of the Parties’ execution of this Agreement. The Deposit shall be released to Seller and credited toward the Purchase Price upon the Closing, or as otherwise set forth in Section 3.2.

“Direct Claim Notice” has the meaning set forth in Section 11.5(a) of this Agreement.

“Disclosure Schedules” has the meaning set forth in Article V of this Agreement.

“Due Diligence Period” has the meaning set forth in Section 4.1 of this Agreement.

“Effective Time” has the meaning set forth in Section 10.1 of this Agreement.

“Employees” means the employees of Seller whose job duties and functions are exclusively to work on-site at the Restaurant.

“Equipment” means all furniture, fixtures and bar, restaurant and kitchen equipment related to the Restaurant (including, without limitation, any POS Systems, computer and telecommunications hardware and software, smallware, glassware, stemware, serveware, cutlery, appliances, signs, menus, menu boards and other items of tangible personal property).

“Escrow” means Escrow No. _____, opened by the Parties with Escrow Holder.

“Escrow Holder” means Commerce Escrow, 1055 Wilshire Blvd., Suite 1000, Los Angeles, California 90017.

“Excluded Assets” has the meaning set forth in Section 2.2 of this Agreement.

“Excluded Liabilities” has the meaning set forth in Section 2.4 of this Agreement.

“Governmental Authority” means any United States or international, federal, state or local government or any court, administrative or regulatory agency or commission or other United States or international governmental authority or agency, or regulatory authority or self-regulatory body.

“Indemnification Claim Date” has the meaning set forth in Section 11.5(a) of this Agreement.

“Indemnified Party” has the meaning set forth in Section 11.5(a) of this Agreement.

“Indemnifying Party” has the meaning set forth in Section 11.5(a) of this Agreement.

“Indemnity Escrow Amount” has the meaning set forth in Section 4.2.

“Intellectual Property” means any trademark, service mark, trade name, trade dress, goodwill, patent, copyright, design, logo, formula, invention (whether or not patentable or reduced to practice), concept, domain name, website, trade secret, know-how, confidential information, mask work, product right, software, technology, social media websites and identities, together with the login information and passwords (including those necessary to access any marketing, advertising or promotional material posted on Facebook, LinkedIn, Twitter, or other third-party websites) or other intangible asset of any nature, whether in use, under development or design or inactive (including any registration, application or renewal regarding any of the foregoing).

“Inventory” means all remaining food products, non-alcoholic beverages, alcoholic beverages,

paper products used in food sales, stock in trade, merchandise and other products sold in the ordinary course of the Restaurant's business prior to termination of operations by Seller and currently located in or about the Leased Property.

"Knowledge of Buyer" (or any similar knowledge qualification) means the actual knowledge of the manager of Buyer.

"Knowledge of Seller" (or any similar knowledge qualification) means the actual knowledge of the managers and executive officers of Seller.

"Landlord" means the fee owner of the Leased Property, and any successor-in-interest.

"Landlord Consent" shall mean Landlord's approval and consent to the Assignment and Assumption of Lease Agreement as evidenced by Landlord's execution of same.

"Law" or "Laws" means any law, statute, rule, executive order, ordinance, regulation, administrative ruling or judgment of any Governmental Authority or any order, writ, injunction or decree entered by any court, regulatory authority or self-regulatory body, arbitrator or other Governmental Authority.

"Leased Property" means the real property for the Restaurant located in the City of Los Angeles, Los Angeles County, California, the legal description of which is set forth in the Assumed Lease.

"Liens" means any mortgages, liens, pledges, security interests, charges, claims, restrictions, and encumbrances of any nature whatsoever.

"Liquor License Transfer Agreement" means the escrow agreement with respect to the transfer of Liquor License from Seller to Buyer in substantially the form attached hereto as Exhibit B.

"Liquor License Escrow Agent" means Escrow Holder.

"Liquor License Escrow Amount" has the meaning set forth in Section 4.1(b) of this Agreement.

"Liquor License" means that certain alcoholic beverage license Type 47 "On-Sale General Eating Place" issued by the California Department of Alcoholic Beverage Control, license number 350485, used in the operation of the Restaurant.

"Losses" means claims, liabilities, deficiencies, interest, Taxes, obligations, losses, costs, expenses, penalties, fines, awards, judgments and damages whenever arising or incurred, including, without limitation, amounts paid in settlement and reasonable outside accountant's, tax consultant's and attorneys' fees and expenses, costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing.

"Material Adverse Effect" means any event, occurrence, effect or change (not otherwise disclosed herein) that (i) individually or in the aggregate, is materially adverse to the business, condition (financial or otherwise), assets, liabilities or results of operations of Seller as they relate to the Purchased Assets or (ii) would prevent, materially delay or materially impede the performance by Seller or Buyer, as applicable, of their respective obligations under this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby; provided, however, that none of the following shall constitute, or shall be considered in determining whether there has occurred, and no event, circumstance, change or effect resulting from or arising out of any of the following shall constitute, a

Material Adverse Effect: (A) changes in the national or world economy or financial markets as a whole or changes in general economic conditions that affect the industries in which Seller or Buyer conducts their respective businesses, so long as such changes or conditions do not adversely affect Seller or Buyer, taken as a whole, in a materially disproportionate manner relative to other similarly situated participants in the industries or markets in which they operate; (B) any change in applicable Law, rule or regulation or generally accepted accounting principles of the United States or interpretation thereof after the date hereof, so long as such changes do not adversely affect Seller or Buyer, taken as a whole, in a materially disproportionate manner relative to other similarly situated participants in the industries or markets in which they operate; or (C) the announcement of the execution of this Agreement or the pendency of consummation of transactions contemplated hereby or the performance of a Party's obligations hereunder; provided, however, that the facts and circumstances underlying any such failure may, except as may be provided in subsections (A), (B) and (C) of this definition, be considered in determining whether a Material Adverse Effect has occurred; provided, further, however, that no event, circumstance, change or effect resulting from or arising out of any action of a Party, conduct of a Party or as a result of the failure of a Party to act, in each case as required or contemplated by this Agreement, shall constitute a Material Adverse Effect as it relates to the other Party.

"Objection Deadline" has the meaning set forth in Section 11.4(a) of this Agreement.

"Objection Notice" has the meaning set forth in Section 11.4(a) of this Agreement.

"Organizational Document" means, for any Person: (a) the articles or certificate of incorporation, formation or organization, as applicable, and the by-laws or similar governing document of such Person; (b) any limited liability company agreement, partnership agreement, operating agreement, stockholder agreement, voting agreement, voting trust agreement or similar document of or regarding such Person; (c) any other charter or similar document adopted or filed in connection with the incorporation, formation, organization or governance of such Person; or (d) any amendment to any of the foregoing.

"Party" has the meaning set forth in the Recitals of this Agreement.

"Permits" has the meaning set forth in Section 2.1(h) of this Agreement.

"Permitted Liens" has the meaning set forth in Section 5.4(b) of this Agreement.

"Person" means any individual, partnership, corporation, limited liability company, association, joint stock company, trustee or trust, joint venture, unincorporated organization or any other business entity or association or any Government Entity.

"POS System" means a point-of-sale system.

"Pre-Closing Obligations" has the meaning set forth in Section 4.2 of this Agreement.

"Pre-Closing Releases" has the meaning set forth in Section 4.2 of this Agreement.

"Pre-Closing Tax Period" means any taxable period ending before the Effective Time and, with respect to any taxable period beginning before and ending after the Effective Time, the portion of such taxable period ending immediately prior to the Effective Time.

"Proceedings" means any judgment, decree, injunction, rule or order of any court, regulatory authority or self-regulatory body, or arbitration panel.

“Purchase Price” has the meaning set forth in Section 4.1(a) of this Agreement.

“Purchased Assets” has the meaning set forth in Section 2.1 of this Agreement.

“Restaurant” has the meaning set forth in the Recitals of this Agreement.

“Schedules” means those certain Schedules attached to this Agreement and incorporated by reference identifying specific items disclosed by the Parties.

“Seller” has the meaning set forth in the prefatory paragraph of this Agreement.

“Seller Indemnified Parties” has the meaning set forth in Section 11.3 of this Agreement.

“Seller Losses” has the meaning set forth in Section 11.3(d) of this Agreement.

“Settled Claims” has the meaning set forth in Section 11.5(b) of this Agreement.

“Settlement Memorandum” has the meaning set forth in Section 11.5(b) of this Agreement.

“Tax” or “Taxes” means any federal, state, local or foreign net income, gross income, gross receipts, sales, use, ad valorem, value-added, capital, unitary, intangible, franchise, profits, license, withholding, payroll, employment, excise, severance, stamp, transfer, occupation, premium, property or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, addition to tax or additional amount imposed by any jurisdiction or other taxing authority.

“Tax Clearance Certificate” has the meaning set forth in Section 7.4(d) of this Agreement.

“Tax Return” or “Tax Returns” means all returns, reports, estimates and statements filed or to be filed with any Taxing Authority in connection with the determination, assessment, collection or administration of any Taxes, including any amendment thereof.

“Termination Date” has the meaning set forth in Section 9.1 of this Agreement.

“Third Party Claim” has the meaning set forth in Section 11.5(c) of this Agreement.

“Third Party Claim Notice” has the meaning set forth in Section 11.5(c) of this Agreement.

“Threshold” has the meaning set forth in Section 11.2(b) of this Agreement.

“Transfer Tax” means any sales, use, value-added, business, goods and services, transfer (including any stamp duty or other similar tax chargeable in respect of any instrument transferring property, documentary, conveyancing) or similar tax or expense or any recording fee, in each case that is imposed as a result of any transaction contemplated herein, together with any penalty, interest and addition to any such item with respect to such item.

ARTICLE II

PURCHASE AND SALE

Section 2.1 Purchase and Sale of the Assets. Subject to the terms and conditions set forth in this Agreement, at Closing, Seller agrees to sell, assign, transfer, convey and deliver to Buyer, and

Buyer agrees to purchase and accept, the following assets, properties and rights of Seller, but only if such assets, properties and rights are used exclusively in the Restaurant, as the same exist as of the Effective Time (the "Purchased Assets"), free and clear of any Liens (excluding Permitted Liens):

- (a) all Equipment listed in Schedule 2.1(a);
- (b) all telephone and facsimile numbers of the Restaurant;
- (c) all goodwill of Seller relating to the Restaurant as a going concern (other than any goodwill attributable to the Excluded Assets);
- (d) certain prepaid expenses, deposits, advances, credits, security deposits, refunds, charges and sums associated with the Purchased Assets that are listed on Schedule 2.1(d) (the "Assumed Prepaid Expenses"), but only to the extent that they are assignable or transferable, and in each case prorated as provided in Section 4.2 of this Agreement;
- (e) all rights and obligations of Seller under the Contracts identified on Schedule 2.1(e) and all Contracts entered into by Seller in the ordinary course of business after the date hereof with vendors, suppliers, distributors, sales representatives, customers or other third parties (the "Assumed Contracts");
- (f) all Inventory listed in Schedule 2.1(f);
- (g) All licenses (including, without limitation, the Liquor License), conditional use permits, parking licenses or leases, authorizations, certificates, approvals, exemptions, registrations, variances and other similar documents and authorizations issued by, obtained or required to be obtained from any Governmental Authority specifically related to the Restaurant and identified on Schedule 2.1(g) (the "Permits"), but only to the extent that they are assignable or transferable;
- (h) all rights and obligations of Seller under the Assumed Lease; and
- (i) all leasehold improvements and other similar assets at or related to the Leased Property, subject to the terms of the Assumed Lease.

Section 2.2 Excluded Assets. Notwithstanding anything herein to the contrary, the following assets of Seller (or otherwise related to the Restaurant) (the "Excluded Assets") which, for the avoidance of doubt, are not the Purchased Assets) will not be transferred and sold pursuant to this Agreement:

- (a) Seller's cash and cash equivalents (other than the cash and cash equivalents referenced in Section 2.1(a));
- (b) marketable securities, certificates of deposit, deposits, bank accounts, cash accounts, investment accounts, lockboxes and similar accounts of Seller;
- (c) all assets or rights of Seller arising exclusively out of this Agreement and all assets of Seller or any Affiliate related to any businesses or property owned or operated by Seller or any Affiliate other than solely with respect to the Restaurant;
- (d) any portion of a POS System that is leased or licensed and not owned by Seller;

- (e) any Permit that is not assignable or transferable;
 - (f) all outstanding and unpaid Employee obligations, personnel agreements and human resources records relating to current and former Employees;
 - (g) all Intellectual Property of Seller and its Affiliates;
 - (h) the corporate seals, organizational documents, minute books, stock books, Tax Returns, books of account or other records having to do with the corporate organization of Seller or any other files, records or data relating to the Excluded Assets or any Excluded Liability (including all correspondence with any Governmental Authority that does not relate to a historical, current or threatened Action for which Buyer has assumed responsibility or that could otherwise adversely affect the Restaurant, the Purchased Assets or Assumed Liabilities, or that is not reasonably likely to be a recurring matter before such Governmental Authority);
 - (i) all vehicles and vehicle leases owned by Seller;
 - (j) all credit cards, debit cards and similar items of Seller;
 - (k) any other assets, properties and rights not specifically identified in Section 2.1;
- and
- (l) all rights to causes of action, lawsuits, judgments, claims and demands of any nature arising out of events occurring prior to the Closing Date available to or being pursued by Seller, whether arising by way of counterclaim or otherwise, relating to the Purchased Assets or relating to the Restaurant.

Section 2.3 Assumed Liabilities. Subject to the terms and conditions set forth in this Agreement, as of the Effective Time, Buyer shall assume, and hereby agrees to pay, perform and discharge, to the extent not theretofore performed, paid or discharged, the following liabilities and obligations of Seller (collectively, the “Assumed Liabilities”):

- (a) all liabilities and obligations arising under or with respect to the Assumed Contracts to be performed on or after, or in respect of periods following, the Closing Date;
- (b) all liabilities in respect of the Permits that are assignable or transferable, but only to the extent that such liabilities thereunder are required to be performed on or after the Closing Date;
- (c) all liabilities in respect of the Assumed Lease, but only to the extent that such liabilities thereunder are required to be performed on or after the Closing Date; and
- (d) all liabilities relating to the ownership or use of the Purchased Assets from and after the Closing Date.

Section 2.4 Excluded Liabilities. Notwithstanding anything herein to the contrary, other than the Assumed Liabilities, Buyer shall not assume any liabilities or obligations of Seller, and Seller shall be solely liable for all other liabilities and obligations arising from or in connection with the ownership of the Purchased Assets or the operation of the Restaurant prior to the Closing Date, whether or not reflected on their books and records, including any liability or obligation relating to an Excluded Asset (collectively, the “Excluded Liabilities”).

Section 2.5 Consents to Certain Assignments. Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any asset, permit, claim or right or any benefit arising thereunder or resulting therefrom if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any agreement or Law to which Seller is a party or by which Seller is bound.

ARTICLE III

Section 3.1 Due Diligence Period. Unless otherwise extended by the Parties in writing, Buyer shall have twenty-one (21) business days from the date of execution and delivery of this Agreement in which to conduct its due diligence (the “Due Diligence Period”) of the transactions contemplated by this Agreement and the Ancillary Agreements. The Due Diligence Period may be extended in writing by the Parties.

Section 3.2 Due Diligence Procedure; Escrow Instructions.

(a) As of the date of commencement of the Due Diligence Period, Seller agrees to fully and promptly cooperate with Buyer's due diligence investigation of Seller and the Purchased Assets. Seller will grant reasonable access to the Restaurant, and will cause its Affiliates, officers, agents, contractors and consultants to afford to Buyer and its representatives, agents, lenders and investors complete and prompt access to its business, properties, operations, products, and personnel, including, financial, legal, tax, regulatory and other data and information pertaining to the Seller's business that are reasonably requested by Buyer or its representatives or agents. Seller will allow Buyer, upon reasonable advance notice and during normal business hours, to examine, inspect, and investigate all aspects of the Restaurant and the Purchased Assets, including, without limitation, to the extent any such items exist, review and approval of the Assumed Lease, all Permits, all plans, architectural drawings, surveys and construction documents. All review, inspection and copying of Seller's books and records shall be at Buyer's sole cost and expense. Buyer shall indemnify Seller for any and all loss, cost, and damage arising from Buyer's Due Diligence inspections, including any physical inspection or testing of the Restaurant.

(b) Prior to expiration of the Due Diligence Period, unless otherwise extended in writing by the Parties, Buyer shall notify Seller in writing of any material disapproved matters in connection with the Purchased Assets arising in its due diligence investigation (the “Disapproved Matters”). Seller shall have three (3) Business Days after the receipt of such written notice to notify Buyer in writing that Seller shall, on or prior to Closing, cure or remove the Disapproved Matter. Closing shall be extended as necessary to afford Seller the opportunity to cure or remove any such Disapproved Matter. Seller's failure to deliver such written notice within such three (3) Business Day period shall be deemed Seller's election not to cure or remove such Disapproved Matter. If Seller elects not to cure or remove, or cannot cure or remove, any such Disapproved Matter, then Seller shall have no liability whatsoever to Buyer therefor, but Buyer may terminate Escrow upon written notice to Seller on or before the expiration of the Due Diligence Period. If Buyer terminates Escrow prior to the expiration of the Due Diligence Period, the Deposit, with any interest accrued thereon, less Buyer's share of any reasonably incurred Escrow expenses, shall be returned to Buyer, and, except for any surviving obligations of the Parties as described in this Agreement, neither Buyer nor Seller shall have any further rights or obligations hereunder. If Buyer fails to terminate Escrow, then Buyer shall be deemed to have agreed to proceed to Closing subject to any applicable, material Disapproved Matters, and with no reduction in the Purchase Price except as otherwise agreed in writing by the Parties. A “material Disapproved Matter” may include, without limitation: (1) Seller failing to obtain Landlord Consent or (2) any structural damage, material casualty, condemnation of a major part of the Restaurant, or seismic retrofit, plumbing,

roof, or other required capital improvement in excess of Twenty-Five Thousand and 00/100 Dollars (\$25,000). Notwithstanding the foregoing and except as specifically provided in this Section 3.2(b), any Disapproved Matter shall be reasonably related to the Purchased Assets, and any disapproval by Buyer shall be reasonable and in good faith, and sufficiently describes the basis for disapproval. In the event Buyer elects to terminate Escrow before expiration of the Due Diligence Period, Buyer will promptly return to Seller any and all copies of any documents, materials and other information Buyer obtained from Seller during the Due Diligence Period, and the only remaining obligation between the Parties shall be the confidentiality covenants set forth in this Agreement. Buyer may not terminate for any non-material Disapproved Matter outside of the Due Diligence Period which Seller elects not to cure, which may include, without limitation, minor title matters, non-major deferred maintenance, failure to enter into the Liquor License Transfer Agreement for any reason on the part of Buyer or buyer's remorse. Notwithstanding anything contained in this Agreement to the contrary, and except as provided herein, Buyer will hold no further rights to conduct due diligence outside the Due Diligence Period or obtain any rights of disapproval except as provided above relating to a Disapproved Matter. The only conditions to Closing, in addition to any Disapproved Matter, are as described in Article VIII.

(c) This Agreement shall serve as escrow instructions to Escrow Holder to consummate the transactions contemplated hereunder. Seller and Buyer hereby authorize their respective attorneys to execute and deliver to Escrow Holder such additional and supplementary escrow instructions as may be appropriate to enable Escrow Holder to comply with the terms of this Agreement, and also agree to execute, if necessary, Escrow Holder's standard or pre-printed escrow instructions but only to the extent the same are consistent with this Agreement and Escrow Holder's duties contained herein and are reasonably acceptable to Seller and Buyer. If there is a conflict between the terms of this Agreement and any such supplementary and/or pre-printed or standard escrow instructions, the terms of this Agreement shall control.

ARTICLE IV

PURCHASE PRICE

Section 4.1 Purchase Price.

(a) The Buyer shall purchase the Purchased Assets for an aggregate purchase price (the "Purchase Price") equal to the total of the following: (i) Five Hundred Ten Thousand and 00/100 Dollars (\$510,000.00), minus (ii) the Deposit.

(b) On the date hereof, Buyer shall pay an amount equal to Thirty-Five Thousand and 00/100 Dollars (\$35,000) (the "Liquor License Escrow Amount") by wire transfer of immediately available funds to the account designated by the Liquor License Escrow Agent. The Liquor License Escrow Amount shall be held by the Liquor License Escrow Agent until distributed in accordance with the terms of the Liquor License Transfer Agreement.

(c) On the Closing Date, Buyer shall pay to Seller an amount equal to (i) the Purchase Price, less (ii) the Liquor License Escrow Amount, less (iii) the Indemnity Escrow Amount (the "Closing Payment") in cash by wire transfer of immediately available funds to the account designated in writing by Seller to Buyer prior to the Closing.

Section 4.2 Indemnity Escrow Amount. The parties agree that One Hundred Thousand and 00/100 Dollars (\$100,000.00) from the Purchase Price (the "Indemnity Escrow Amount") shall be held by Escrow Holder for the payment and settlement of those certain Liens and Buyer Losses identified on Schedules 5.4 and 5.5 ("Pre-Closing Indemnity Obligations"). The Pre-Closing Indemnity Obligations

shall be paid by Escrow Holder prior to Closing and Seller shall, prior to Closing, obtain written evidence reasonably satisfactory to Buyer that such Pre-Closing Indemnity Obligations have been fully released (the “Pre-Closing Releases”). Notwithstanding the foregoing, if the Indemnity Escrow Amount is insufficient to cover the Pre-Closing Indemnity Obligations in full, Seller shall be required to pay and deposit into Escrow prior to the Closing the remaining amount of the shortfall. Each of Buyer and Seller shall promptly execute and deliver to the Escrow Holder joint written instructions directing the Escrow Holder to pay the Pre-Closing Indemnity Obligations from the Escrow account and, if applicable, any additional amounts deposited by Seller to cover any shortfall.

Section 4.3 Allocation of Purchase Price. Seller and Buyer agree that the Purchase Price shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as shown on the allocation schedule to be provided by Seller to Buyer within five (5) days after the final determination of the Closing Date (the “Allocation Schedule”). Buyer and Seller shall report, act and file Tax Returns (including Internal Revenue Service Form 8594) in all respects and for all purposes consistent with the Allocation Schedule. Neither Buyer nor Seller shall take any position (whether in Audits, Tax Returns or otherwise) that is inconsistent with the Allocation Schedule unless required to do so by Law. Buyer and Seller shall file all Tax Returns (including amended returns and claims for refund) and information reports in a manner consistent with the Allocation Schedule.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows, except as set forth in the disclosure schedules delivered by Seller to Buyer concurrently with the execution of this Agreement (the “Disclosure Schedules”):

Section 5.1 Organization and Good Standing. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of California and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business (including the Restaurant) as now being conducted. Seller is duly qualified or registered to transact business, and is in good standing, in each jurisdiction where the nature of its respective activities or the location of its respective properties requires such qualification or registration, except where the failure to so qualify would not result in a Material Adverse Effect.

Section 5.2 Authorization. Seller has full corporate power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and each of the Ancillary Agreements to which it will be a party, the performance by Seller of its obligations hereunder and thereunder and the consummation of the transactions provided for herein and therein have been duly and validly authorized by all necessary corporate action on the part of Seller. This Agreement has been, and upon its execution each of the Ancillary Agreements to which Seller will be a party will have been, duly executed and delivered by Seller. This Agreement constitutes, and upon its execution each of the Ancillary Agreements to which Seller will be a party will constitute, the legal, valid and binding agreement of Seller, enforceable against it in accordance with their respective terms, subject to applicable bankruptcy, insolvency and other similar Laws affecting the enforceability of creditors’ rights generally, general equitable principles and the discretion of courts in granting equitable remedies.

Section 5.3 Absence of Restrictions and Conflicts. The execution, delivery and performance of this Agreement and each of the Ancillary Agreements to which Seller will be a party, and

the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the terms and conditions hereof and thereof, do not and will not (a) violate or conflict with any provision of the Organizational Documents of Seller; (b) violate or conflict with any judgment, decree or order of any Governmental Authority by which Seller, the Restaurant or any of the Purchased Assets are bound; (c) violate or conflict with any Law applicable to Seller, the Restaurant or the Purchased Assets; or (d) except as set forth on Schedule 5.3, conflict with, constitute a breach of or default (or an event that, with notice or lapse of time or both, would become a default) under, require any consent of any Person pursuant to, or give rise to others any rights of increase, termination, acceleration, modification or cancellation of, any Assumed Contract, Permit, or the Assumed Lease except where such a breach, violation, default, conflict or right under clause (b), (c) or (d) above would not have a Material Adverse Effect.

Section 5.4 Title to Purchased Assets. Seller has good and valid title to, or a valid leasehold interest in, all of the Purchased Assets. All such Purchased Assets (including leasehold interests) are free and clear of Liens except for:

- (a) those items, if any, set forth on Schedule 5.4; and
- (b) the following items, which are referred to as "Permitted Liens": liens for Taxes not yet due and payable or that may thereafter be paid without penalty.

Section 5.5 Legal Proceedings. Except as set forth on Schedule 5.5, there are no Actions, Proceedings or other document or information requests from any Governmental Authority, or investigations pending or, to the Knowledge of Seller, threatened against, relating to or involving the Restaurant or the Purchased Assets. None of the foregoing, if finally determined adversely, is reasonably likely, individually or in the aggregate, to have a Material Adverse Effect or would affect the legality, validity or enforceability of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby. Seller is not subject to any Action or Proceeding that relate to the Restaurant.

Section 5.6 Compliance with Laws; Permits.

(a) **Compliance with Laws.** Except as set forth on Schedule 5.6(a), Seller is in compliance with all Laws (including those relating to maintaining Permits required of Seller to operate the Restaurant), except for any noncompliance that would not have a Material Adverse Effect. No written notice or other communication has been received by Seller from December 31, 2014 to the date of this Agreement from any Governmental Authority alleging that Seller is not or was not in compliance with any Law that has not been remedied, except to the extent the failure to remedy such violation would not have a Material Adverse Effect. To the extent that other representations and warranties in this Article IV specifically address compliance with Laws of a specific type, such other representations and warranties shall supersede this Section 5.6.

(b) **Permits.** All Permits required for Seller to conduct the Restaurant as previously conducted or for the ownership and use of the Purchased Assets have been obtained by Seller and are valid and in full force and effect. All fees and charges with respect to such Permits as of the date hereof have been paid in full. Schedule 5.6(b) lists all current Permits issued to Seller that are related to the conduct of the Restaurant as currently conducted or the ownership and use of the Purchased Assets, including the names of the Permits and their respective dates of issuance and expiration. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit set forth on Schedule 5.6(b).

(c) **Alcoholic Beverage Control Act.** To the Knowledge of Seller, Seller is not in violation of the Alcoholic Beverage Control Act, and is not aware of any reason why the California Department of Alcoholic Beverage Control would deny the application for transfer of the Liquor License from Seller to Buyer.

Section 5.7 Assumed Contracts. True and complete copies of all of the Assumed Contracts have been made available to Buyer. The Assumed Contracts are valid, binding and fully enforceable in accordance with their respective terms, and shall continue to be fully enforceable upon consummation of the transactions contemplated by this Agreement, except to the extent that any Consents are not obtained, subject to applicable bankruptcy, insolvency and other similar Laws affecting the enforceability of creditors' rights generally, known general equitable principles and the discretion of courts in granting equitable remedies. Seller has not received written notice or other communication of termination of any of the Assumed Contracts, and to the Knowledge of Seller, there are no (i) existing material defaults or material breaches by Seller under any Assumed Contract; (ii) events or conditions which, with notice or lapse of time or both, would constitute a material default or material breach; or (iii) existing material defaults with respect to any third party to any Assumed Contract.

Section 5.8 Taxes. There is no Lien on any of the Purchased Assets that arose in connection with any failure (or alleged failure) by Seller or any Affiliate to pay any Tax and there is no reasonable basis for assertion of any claim attributable to Taxes which, if adversely determined, would result in any such Lien.

Section 5.9 Environmental, Health and Safety Matters.

(a) **Environmental Permits.** Seller has obtained each Permit that is or was required to obtain under any Environmental Law relating to the Restaurant, and all of such Permits that are currently held by Seller relating to the Restaurant are listed on Schedule 5.9. The operation of the Restaurant is and always has been conducted in material compliance with Environmental Laws.

(b) **Environmental Claims.** There is no claim relating to Environmental Laws pending or, to the Knowledge of Seller, threatened as of the date of this Agreement related to Seller or the Restaurant that could reasonably be expected to have a Material Adverse Effect. There are no known facts or circumstances that would be reasonably expected to form the basis for any claim against any Seller or their Affiliates under any Environmental Laws with respect to the operation of the Restaurant, including, without limitation, the release or disposal of any waste or hazardous materials at any on-site or off-site location. No incident, condition, change, effect or circumstance with respect to the Restaurant has occurred or exists that could reasonably be expected to prevent or interfere with material compliance with any Environmental Law.

(c) **Hazardous Materials.** Seller, in connection with the operation of the Restaurant, has not imported, manufactured, stored, used, operated, transported, treated or disposed of any waste or hazardous materials other than in material compliance with all Environmental Laws.

Section 5.10 Brokers, Finders and Investment Bankers. Seller does not have any obligation or other liability to any broker, finder or similar intermediary in connection with the transactions contemplated herein that would cause Buyer to become liable for payment of any fee or expense with respect thereto.

Section 5.11 Real Property.

(a) All of the land, buildings, structures and other improvements used by Seller in its prior operation of the Restaurant are included in the Leased Property. There is no pending or, to the Knowledge of Seller, threatened Action or Proceeding regarding condemnation or other eminent domain Proceeding affecting the Leased Property or any sale or other disposition of the Leased Property in lieu of condemnation. The Leased Property has not suffered any material damage by fire or other casualty that has not been completely repaired and restored.

(b) Seller has a valid leasehold interest under the Assumed Lease, and to the Knowledge of Seller, no other party to the Assumed Lease is in default thereunder. Seller is not in default or otherwise in breach under the Assumed Lease. To the Knowledge of Seller, no party to the Assumed Lease has exercised any termination right with respect thereto. Seller has provided to Buyer a true, correct and complete copy of the Assumed Lease. The Assumed Lease is in full force and effect and constitutes the entire agreement between the parties thereto, and there are no other agreements, whether oral or written, between such parties. All rent and other sums and charges payable by Seller as tenant thereunder shall be current as of the Closing Date. To the Knowledge of Seller, no party to the Assumed Lease has repudiated any provision thereof and there is no dispute, oral agreement or forbearance program in effect with respect to the Assumed Lease. Seller has good title to the leasehold estate and other rights of the tenant with respect to the property affected by the Assumed Lease, free and clear of all Liens, other than Permitted Liens. Seller has not received written notice or any other communication from any insurance company that such insurance company will require any alteration to the Leased Property for continuance of a policy insuring such property or the maintenance of any rate with respect thereto (other than any notice of alteration that has been completed), to the extent that such alteration is the responsibility of the tenant under the Assumed Lease.

(c) (i) Seller has not given any mortgagee or other Person any estoppel certificate or similar instrument that would preclude assertion of any claim under the Assumed Lease, affect any right or obligation under the Assumed Lease; (ii) Seller is not currently contesting, any operating cost, real estate Tax or assessment or other charge payable by the tenant under the Assumed Lease; (iii) there is no purchase option, right of first refusal, first option or other right held by Seller with respect to, or any real estate or building affected by, the Leased Property that is not contained within the Assumed Lease; and (iv) Seller has not exercised any option or right to terminate, renew or extend or otherwise affect any right or obligation of the tenant under the Assumed Lease or to purchase the Leased Property.

(d) Upon delivery of the Assignment and Assumption of Lease Agreement for the Leased Property at Closing, the Leased Property is sufficient in all material respects for resuming operations of the Restaurant after Closing in substantially the same manner as operated prior to the Closing and constitutes all of the real property necessary to operate the Restaurant as previously operated by Seller.

Section 5.12 Condition and Sufficiency of Assets. As of the Closing Date, to the Knowledge of Seller, (a) the buildings, structures, furniture, fixtures, equipment, and other items of tangible personal property included in the Purchased Assets are structurally sound, are in good operating condition and repair and are adequate for the uses to which they are being put, and none of such buildings, structures, furniture, fixtures, equipment, and other items of tangible personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost and (b) the Purchased Assets are sufficient for the resumed operation of the Restaurant after Closing in substantially the same manner as operated prior to Closing and constitute all of the rights, property and assets necessary to operate the Restaurant as previously operated by Seller. None of the Excluded Assets are material to continued operations of the Restaurant.

Section 5.13 Seller Employment Liabilities.

(a) **Employment Liabilities.** All Employees of the Restaurant have ceased to be employees of Seller prior to the Closing Date. Prior to the Closing Date, Seller has paid each such Person all accrued wage, salary, commission and other employee compensation payments for all periods prior to the Closing Date to which such Person is entitled. In addition, Seller has paid or provided for all other employee benefits maintained by Seller for all periods prior to the Closing Date, all in accordance with applicable Law, including all accrued obligations of Seller as of the Closing Date relating to vacation pay (and related payroll tax liabilities and fringe benefit expenses) as to any Employee of the Restaurant. Seller shall be responsible for any WARN Act notices or liabilities arising from or resulting from the termination of any Employees.

(b) **No Right to Employment.** Seller acknowledges nothing is implied by this Agreement conferring upon any Employee, or legal representative thereof, any rights or remedies, including any right to employment or benefits for any specified period, of any nature or kind whatsoever, under or by reason of this Agreement.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as follows:

Section 6.1 Organization. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of California, and has all requisite limited liability company power and authority to own, lease and operate its properties and to carry on its business as now being conducted.

Section 6.2 Authorization. Buyer has all requisite limited liability company power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and each of the Ancillary Agreements to which it will be a party by Buyer, the performance by Buyer of its obligations hereunder and thereunder and the consummation of the transactions provided for herein and therein have been duly and validly authorized by all necessary limited liability company action on the part of Buyer. This Agreement has been, and upon its execution each of the Ancillary Agreements to which Buyer will be party to will have been, duly executed and delivered by Buyer. This Agreement constitutes, and upon its execution each of the Ancillary Agreements to which Buyer will be party to will constitute, the legal, valid and binding agreement of Buyer enforceable against it in accordance with their terms, subject to applicable bankruptcy, insolvency and other similar Laws affecting the enforceability of creditors' rights generally, general equitable principles and the discretion of courts in granting equitable remedies.

Section 6.3 Absence of Restrictions and Conflicts. The execution, delivery and performance of this Agreement and each of the Ancillary Agreements to which Buyer will be a party and the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the terms and conditions hereof and thereof, do not and will not (a) violate or conflict with any term or provision of the charter documents of Buyer; (b) conflict with, constitute a breach of or default under (or an event that, with notice or lapse of time or both, would become a default under) or permit the acceleration of any obligation under any material contract to which Buyer is a party; (c) violate or conflict with any judgment, decree or order of any Governmental Authority; or (d) violate or conflict with any Law applicable to Buyer, except for any such violations, conflicts, breaches, defaults or other occurrences that would not, individually or in the aggregate, reasonably be expected to materially impede

the performance by Buyer of its obligations under this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby.

Section 6.4 Brokers, Finders and Investment Bankers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated herein based upon any arrangements made by or on behalf of the Buyer or its Affiliates.

Section 6.5 Legal Proceedings. There are no Actions or Proceedings or other document or information requests from any Governmental Authority, or investigations pending or, to the Buyer's Knowledge, threatened against, relating to or involving Buyer.

ARTICLE VII

CERTAIN COVENANTS AND AGREEMENTS

Section 7.1 Further Assurances; Cooperation; Access.

(a) **Further Assurances.** Seller will give any notices to third parties and use all commercially reasonable efforts (in consultation with Buyer) to take, or cause to be taken, all appropriate action to do, or cause to be done, all things necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements as promptly as practicable, including to obtain from Governmental Authorities and any third party all consents, approvals, authorizations, qualifications and orders (i) required to assign to Buyer any of the Purchased Assets that requires the consent of a third party, without any conditions to such transfer or changes or modifications of terms thereunder; (ii) necessary, proper or advisable to consummate the transactions contemplated by this Agreement and the Ancillary Agreements; (iii) disclosed or required to be disclosed in the Disclosure Schedules to this Agreement, including, without limitation, the Consents listed on Schedule 7.1; (iv) required to obtain Permits that are necessary to operate the Restaurant in the same manner as operated prior to Closing; or (v) required to avoid a breach of or default under any Assumed Contracts in connection with the consummation of the transactions contemplated by this Agreement.

(b) **Pre-Close Access.** During the Due Diligence Period and until Closing, Seller shall afford Buyer reasonable access during regular business hours to the Restaurant, and shall furnish Buyer with all relevant operating and other data and information as Buyer may reasonably request.

Section 7.2 Taxes; Transfer Taxes.

(a) **General Requirements.** Seller will file and pay when due or cause to be so filed and paid, all Tax Returns and Taxes with respect to Seller's previous operation of the Restaurant. Buyer will file and pay when due, or cause to be so filed and paid, all Tax Returns and Taxes with respect to Buyer's operation of the Restaurant.

(b) **Transfer Taxes.** Notwithstanding Section 7.4, Seller will file and pay when due or cause to be so filed and paid all Tax Returns regarding Transfer Taxes and all Transfer Taxes, regardless of the Person on whom such Transfer Taxes are imposed by Law, including, without limitation, any direct or indirect sales tax on the tangible assets included in the Purchased Assets. Each Party will cooperate in all reasonable respects in executing and delivering certificates that accurately set forth relevant facts to entitle any Party to exemptions from the payment of Transfer Taxes, if applicable.

(c) **Cooperation.** Each Party will, and each Party will cause its applicable Affiliates to, cooperate in all reasonable respects with respect to Tax matters and provide one another with such information as is reasonably requested to enable the requesting Party to complete and file all Tax Returns it may be required to file (or cause to be filed) with respect to the Restaurant, to respond to Tax audits, inquiries or other Proceedings and to otherwise satisfy Tax requirements.

(d) **Tax Clearance Certificates.** If requested by Buyer, Seller shall notify all of the taxing authorities in the jurisdictions that impose Taxes on Seller or where Seller has a duty to file Tax Returns of the transactions contemplated by this Agreement in the form and manner required by such taxing authorities, if the failure to make such notifications or receive any available tax clearance certificate (a "Tax Clearance Certificate") could subject the Buyer to any Taxes of Seller. If any taxing authority asserts that Seller is liable for any Tax related to a Pre-Closing Tax Period, Seller shall promptly pay any and all such amounts and shall provide evidence to Buyer that such liabilities have been paid in full or otherwise satisfied.

Section 7.3 Public Announcements. Unless otherwise required by the applicable Law (based upon the reasonable advice of legal counsel), each of the Parties agree that neither the Parties themselves nor any other party acting or purporting to act on either Party's behalf will make any public announcements regarding this Agreement or any of the transactions contemplated herein or otherwise communicate with any news media without the prior written consent of the other Party (which consent will not be unreasonable withheld or delayed). The Parties shall consult with one another regarding the timing and content of the initial public announcement regarding this Agreement or the transactions contemplated hereby and shall use reasonable efforts to agree upon the text of any such announcement prior to its release.

Section 7.4 Bulk Sales Law. Buyer hereby waives compliance by Seller with the requirements of any applicable laws relating to bulk sales and transfers and Seller hereby agrees to indemnify and hold harmless Buyer from any and all claims, liabilities or costs arising with respect thereto, including reasonable attorneys' fees.

Section 7.5 Financing. At Closing, Buyer will have sufficient immediately available funds to pay the Purchase Price.

Section 7.6 Assumed Lease. At Closing, Buyer and Seller agree, with respect to the Assumed Lease, to enter into, or to cause their applicable Affiliates to enter into, an Assignment and Assumption of Lease Agreement for the Assumed Lease in substantially the form of Exhibit D hereto (the "Assignment and Assumption of Lease Agreement"), and, if required by the Assumed Lease, Seller will use its best efforts to cause the landlord of the Assumed Lease to execute and deliver a consent to such assignment (the "Landlord Consent") at or prior to Closing. In the event that Seller and its Affiliates are not released from any further obligations under the Assumed Lease as a result of the Assignment and Assumption of Lease Agreement, then Buyer shall provide Seller and its Affiliates at Closing a letter of credit or other form of security acceptable to Buyer in an amount equal to the total of all remaining payments due for the remaining initial term of the Assumed Lease. Further, until such time as Seller and its Affiliates are fully released from any further obligations under the Assumed Lease, neither Buyer nor any Affiliate (nor any assignee under the Assumed Lease) will exercise any extension or renewal under the Assumed Lease.

Section 7.7 Confidential Information. Seller shall, and Seller shall cause its Affiliates to, hold in confidence at all times after the date hereof all Confidential Information, and shall not disclose, publish or make use of any Confidential Information at any time after the date hereof without the prior written consent of Buyer. Nothing contained in this Agreement shall be deemed to (a) prevent the

disclosure of information that is required to be disclosed under applicable Law or by order of a Governmental Authority acting within its jurisdiction, provided that prior to such disclosure, Seller shall have provided Buyer with notice of such disclosure requirement and Buyer shall have had a reasonable opportunity to contest such requirement or (b) prevent Seller from maintaining, using and disclosing any records or information to the extent reasonably necessary in connection with Restaurant-related litigation to which Seller may at any time be a party.

ARTICLE VIII

CONDITIONS TO THE CLOSING

Section 8.1 Conditions to Obligations of Each Party. The respective obligations of Buyer and Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction, at or prior to the Closing, of each of the following conditions, unless waived in writing by both Parties:

(a) no Law enacted, issued, promulgated, enforced or entered by any Governmental Authority preventing or otherwise making illegal the consummation of the transactions contemplated by this Agreement or any Ancillary Agreement shall be in effect;

(b) no suit, government investigation, Action or other Proceeding shall be pending or threatened against Buyer or Seller before any Governmental Authority (except as provided for in Schedule 8.1(b) and as expressly acknowledged by the Parties) which, in the reasonable opinion of counsel for Buyer or Seller, would be likely to restrain or prohibit any such party from consummating the transactions contemplated hereby or result in damages or other relief being obtained from such party;

(c) Seller shall have received all Consents listed on Schedule 5.3 in form and substance reasonably satisfactory to Buyer and no such Consent shall have been revoked, and Buyer shall have received all Permits that are necessary for it to operate the Restaurant as operated by Seller as of the Closing Date; and

(d) Buyer has not otherwise terminated Escrow in accordance with Article III hereof.

Section 8.2 Conditions to Obligations of Buyer to Close. The obligations of Buyer to consummate the transactions contemplated by this Agreement are further subject to satisfaction at or prior to the Closing Date of each of the following conditions, any of which may be waived in writing by Buyer in its sole discretion:

(a) **Accuracy of Representatives and Warranties.** The representations and warranties of Seller in Article IV of this Agreement or in any Ancillary Agreement delivered pursuant hereto shall be true and correct both as of the date of this Agreement and as of the Closing Date (except those representations and warranties that by their terms speak only as of the date of this Agreement or some other date, in which case as of such date), except to the extent any inaccuracies (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or Material Adverse Effect set forth therein) in any such representations or warranties would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; and Seller shall have performed in all material respects all obligations and agreements and complied with all covenants and conditions required to be performed or complied with by it under this Agreement or any Ancillary Agreement on or prior to the Closing Date.

(b) **No Material Adverse Effect.** Since the date of this Agreement, there will have been no Material Adverse Effect.

(c) **Delivery of Other Items.** Seller will have delivered to Buyer each of the items listed in Section 10.2 of this Agreement.

(d) **Consents.** Seller will have obtained and delivered to Buyer the Consents listed on Schedule 5.3 and the Landlord Consent.

Section 8.3 Conditions to Obligations of Seller to Close. The obligations of Seller to consummate the transactions contemplated by this Agreement are further subject to satisfaction at or prior to the Closing Date of the following conditions, any of which may be waived in writing by Seller in their sole discretion:

(a) **Accuracy of Representations and Warranties.** The representations and warranties of Buyer in this Agreement or any Ancillary Agreement delivered pursuant hereto shall be true and correct both as of the date of this Agreement and as of the Closing Date (except those representations and warranties that by their terms speak only as of the date of this Agreement or some other date, in which case as of such date), except to the extent any inaccuracies (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or Material Adverse Effect set forth therein) in any such representations or warranties would not be material; and Buyer shall have performed in all material respects all obligations and agreements and complied with all covenants and conditions required to be performed or complied with by it under this Agreement or any Ancillary Agreement on or prior to the Closing Date.

(b) **No Material Adverse Effect.** Since the date of this Agreement, there will have been no Material Adverse Effect.

(c) **Delivery of Other Items.** Buyer will have delivered to Seller each of the items listed in Section 10.3 of this Agreement.

(d) **Consents.** Seller will have obtained the Consents listed on Schedule 5.3 and the Landlord Consent.

(e) **Transfer of Permits.** All Permits of Seller required to operate the Restaurant and the Purchased Assets shall be unconditionally transferred to Buyer, excluding the closing of transactions contemplated under the Liquor License Transfer Agreement; provided, however, that the Parties shall have duly executed the Liquor License Transfer Agreement and all related transaction documents in connection therewith, and Seller shall promptly cooperate with Buyer post-Closing to complete the transactions contemplated under the Liquor License Transfer Agreement.

ARTICLE IX

TERMINATION

Section 9.1 Termination. This Agreement may be terminated on a date prior to the Closing Date (the “Termination Date”) as follows:

- (a) by Buyer in accordance with Article III of this Agreement;
- (b) by mutual written consent of Buyer and Seller at any time;
- (c) by either Buyer or Seller at any time if any Governmental Authority shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise

prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling or other action shall have become final and non-appealable; provided, however, that the party terminating this Agreement pursuant to this Section 9.1(b) shall have used all commercially reasonable efforts to have such order, decree, ruling or action vacated;

(d) by Buyer or Seller if a condition to the Closing obligation of the Party terminating the Agreement in Article VIII shall have become incapable of fulfillment at the Closing and such condition shall not have been waived in writing; provided, however, that the right to terminate this Agreement under this Section 9.1(d) shall not be available to any Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of such condition to be satisfied.

The Party seeking to terminate this Agreement pursuant to this Section 9.1 (other than Section 9.1(a)) shall give prompt written notice of such termination to the other Party.

Section 9.2 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 9.1 hereof, this Agreement shall forthwith be terminated and have no further effect except (a) for the provisions of Section 12.1 relating to notices, Section 12.3 relating to controlling law, Section 12.8 relating to transaction costs and this Section 9.2 and (b) that nothing herein shall relieve any Party from liability for any willful breach of this Agreement.

ARTICLE X

CLOSING

Section 10.1 Closing. Subject to any earlier termination hereof, following the expiration of the Due Diligence Period, the closing of the transactions contemplated herein ("Closing") will take place at the offices of Manatt, Phelps & Phillips, LLP in Los Angeles, California, beginning at 9:00 a.m. Pacific Standard Time on the second Business Day after the satisfaction or waiver of all conditions to the obligations of the Parties to consummate such transactions (other than conditions that by their nature are to be satisfied at Closing, but subject to the satisfaction or waiver of such conditions at Closing) and following delivery by the Parties of the deliverables listed in Sections 10.2 and 10.3 herein or on such other date or time as the Parties mutually determine (the actual date Closing occurs being the "Closing Date"). Buyer and Seller will diligently and in good faith deliver the deliverables listed in Sections 10.2 and 10.3 herein. Closing will be effective as of 12:01 a.m. Pacific Standard Time on the Closing Date (the "Effective Time"). All actions to be taken and all documents to be executed or delivered at Closing will be deemed to have been taken, executed and delivered simultaneously, and no action will be deemed taken and no document will be deemed executed or delivered until all have been taken, delivered and executed, except in each case to the extent otherwise stated in this Agreement or any such other document.

Section 10.2 Seller Closing Deliveries. At Closing, Seller shall deliver to Buyer the following:

- (a) a Bill of Sale and Assignment and Assumption Agreement executed by Seller;
- (b) each of the Consents and the Landlord Consent;
- (c) the Assignment and Assumption of Lease Agreement for the Assumed Lease executed by Seller;

(d) the Liquor License Transfer Agreement executed by Seller (and all related transaction documents); and

(e) the Pre-Closing Releases.

Section 10.3 Buyer Closing Deliveries. At Closing, Buyer shall deliver to Seller the following:

(a) the Purchase Price, in the manner described in Section 4.1;

(b) a Bill of Sale and Assignment and Assumption Agreement executed by Buyer;

(c) the Assignment and Assumption of Lease Agreement for the Assumed Lease executed by Buyer; and

(d) the Liquor License Transfer Agreement executed by Buyer (and all related transaction documents).

Section 10.4 Deposit. Notwithstanding anything to the contrary contained in this Agreement, in the event Seller delivers all of the items to Buyer as required under Section 10.2, is not otherwise in uncured material breach of this Agreement, and the Closing does not occur through no fault of Seller, Escrow Holder shall release the Deposit to Seller pursuant to this Section 10.4.

ARTICLE XI

INDEMNIFICATION

Section 11.1 Seller's Indemnification Obligations. Seller shall save, indemnify, defend and hold harmless Buyer and its officers, directors, employees, agents, representatives, successors and assigns (collectively, the "Buyer Indemnified Parties"), from and against any and all Losses, arising out of, relating to, or resulting from:

(a) any inaccuracy in or breach of any representation or warranty made by Seller in this Agreement or any Ancillary Agreement or any certificate delivered pursuant to this Agreement;

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seller or its Affiliates pursuant to this Agreement or any Ancillary Agreement or any certificate or instrument delivered by or on behalf of Seller or its Affiliates at Closing pursuant to this Agreement or the Ancillary Agreements;

(c) any Excluded Asset or any Excluded Liability; or

(d) any third-party claim based upon, resulting from or arising out of the operation of the Restaurant or obligations of Seller or any of its Affiliates to the extent conducted, existing, or arising prior to the Closing Date (collectively, the "Buyer Losses").

Section 11.2 Certain Limitations on Seller's Indemnification Obligations.

(a) **Threshold on Seller's Indemnification Obligations.** Seller will not be obligated to so indemnify the Buyer Indemnified Parties under this Article X, unless and until the aggregate amount of Buyer Losses exceeds Ten Thousand and 00/100 Dollars (\$10,000) (the

“Threshold”), in which event Seller shall be required to pay Buyer for all such Buyer Losses exceeding the Threshold.

(b) **Certain Treatment of Special Representations.** Notwithstanding the foregoing terms of this Section 10.2, the Threshold shall not apply to any Buyer Losses arising out of or relating to:

- (i) any Excluded Asset or any Excluded Liability;
- (ii) breaches of the representations, warranties, covenants, agreements and undertakings set forth in Sections 5.1 (Organization and Good Standing), 5.2 (Authorization), 5.3 (Absence of Restrictions and Conflicts), 5.4 (Title to Purchased Assets), 5.8 (Taxes), 5.12 (brokers) and 5.12 (Condition and Sufficiency of Assets); or
- (iii) intentional fraud of Seller.

Section 11.3 Buyer Indemnification Obligations. Buyer shall save, indemnify, defend and hold harmless Seller and their officers, directors, employees, agents, representatives, successors and assigns (collectively, the “Seller Indemnified Parties”), from and against any and all Losses, arising out of, relating to, or resulting from:

- (a) any inaccuracy in or breach of any representation or warranty made by Buyer in this Agreement or any Ancillary Agreement or any certificate delivered pursuant to this Agreement;
- (b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer or its applicable Affiliates pursuant to this Agreement or any Ancillary Agreement or any certificate or instrument delivered by or on behalf of Seller or its Affiliates at Closing pursuant to this Agreement or the Ancillary Agreements;
- (c) any Purchased Asset or any Assumed Liability; or
- (d) any third-party claim based upon, resulting from or arising out of the operation of the Restaurant or obligations of Seller or its Affiliates to the extent conducted, existing, or arising on or after the Closing Date (except with respect to matters for which Buyer is entitled to indemnification pursuant to Section 10.1(a)) (collectively, the “Seller Losses”).

Section 11.4 Indemnification Procedure.

(a) **Direct Claims for Indemnification.** Subject to the limitations set forth above, any Buyer Indemnified Party or Seller Indemnified Party (each, an “Indemnified Party”) may seek recovery of Losses pursuant to this Article XI by promptly delivering to Seller or Buyer (each, an “Indemnifying Party”), as applicable, a notice (i) stating that an Indemnified Party has paid, sustained, suffered or incurred a Loss and (ii) specifying in reasonable detail the nature of the Losses, including an estimate (if reasonably apparent) of the amount of the Loss and the date (if reasonably apparent) that such Loss was paid, suffered, sustained or incurred (a “Direct Claim Notice”). The date of such delivery of a Direct Claim Notice is referred to herein as the “Indemnification Claim Date” of such Direct Claim Notice (and the claims for indemnification contained therein). The Indemnifying Party may object to a claim for indemnification set forth in a Direct Claim Notice by delivering to the Indemnified Party seeking indemnification (and, in the case of a claim against the Escrow account, also to the Escrow Holder) within twenty (20) days after the delivery by an Indemnified Party of a Direct Claim Notice (the last day of such period, the “Objection Deadline”), a written statement of objection to the claim made in the Direct Claim Notice (an “Objection Notice”), which Objection Notice, in order to be effective, shall

set forth in reasonable detail the nature of the objections to the claims in respect of which the objection is made. If the Indemnifying Party does not object in writing by the Objection Deadline, such failure to so object shall be an irrevocable acknowledgment by the Indemnifying Party that the Indemnified Party is entitled to the full amount of the claims for Losses set forth in such Direct Claim Notice (and such entitlement shall be conclusively and irrefutably established), and the Indemnifying Party shall take all necessary actions under this Agreement and the Escrow Agreement to effect payment in respect thereof.

(b) Resolution of Conflicts.

(i) If an Indemnifying Party timely delivers an Objection Notice in accordance with Section 10.4(a), the Indemnifying Party and the Indemnified Party shall attempt in good faith for twenty (20) days to resolve such dispute. If the Indemnifying Party and the Indemnified Party reach an agreement with respect to such dispute, a memorandum setting forth such agreement shall be prepared and signed by both parties (a "Settlement Memorandum") and, in the case of a claim against the Escrow account, shall be furnished to the Escrow Holder (any claims covered by such Settlement Memorandum, "Settled Claims").

(ii) If the Indemnifying Party and the Indemnified Party are unable to reach an agreement with respect to such dispute after good faith negotiation during the aforementioned 20-day period following delivery of an Objection Notice or the Objection Deadline, as applicable, with respect to such claim, any party to such dispute may institute dispute resolution proceedings in accordance with Section 11.12 and Section 11.13 with respect to the matter. Any final and non-appealable written decision, judgment or award rendered by a Governmental Authority of competent jurisdiction as to the validity and amount of any claim in such Direct Claim Notice shall be final, binding, and conclusive upon the parties to this Agreement and any other Indemnifying Parties and Indemnified Parties.

(c) Third Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any Action made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a representative of the foregoing (a "Third Party Claim") against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party reasonably prompt written notice thereof (the "Third Party Claim Notice"), but in any event not later than twenty (20) days after receipt of such notice of such Third Party Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations hereunder to the extent it does not prejudice the Indemnifying Party's ability to defend such Third Party Claim, and then only to the extent of such prejudice. The Third Party Claim Notice shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. If such Losses are final and liquidated, the Third Party Claim Notice shall so state and such amount shall be deemed the amount of the Third Party Claim of the Indemnified Party. If such Losses are not final and adjudicated, the Third Party Claim Notice shall so state and in such event, a claim shall be deemed asserted against the Indemnifying Party by the Indemnified Party in the amount specified in the Third Party Claim Notice.

(d) Defense and Participation Regarding Third Party Claims. This Section 11.4(d) relates only to Third Party Claims.

(i) Election to Conduct Defense. Promptly after receiving a Third Party Claim Notice under Section 11.4(c), the Indemnifying Party will have the option to conduct the Defense of such Third Party Claim, at the expense of the Indemnifying Party, except if (A) the aggregate amount

of the potential obligations of the Indemnified Party (or its Affiliates) regarding such Third Party Claim exceeds the maximum obligations of the Indemnifying Party under this Agreement regarding such Third Party Claim, (B) it is reasonably likely that such Third Party Claim will adversely affect the Indemnified Party (or any of its Affiliates), other than as a result of money damages, or (C) the Indemnifying Party fails to provide the Indemnified Party with evidence reasonably satisfactory to the Indemnified Party that the Indemnifying Party has the financial resources to actively and diligently conduct the Defense of such Third Party Claim and fulfill the Indemnifying Party's indemnification obligations under this Agreement with respect to such claim. To elect to conduct such Defense, the Indemnifying Party must give written notice of such election to the Indemnified Party within ten (10) days (or within the shorter period, if any, during which a Defense must be commenced for the preservation of rights) after the Indemnified Party gives the corresponding Third Party Claim Notice to the Indemnifying Party (otherwise, such right to conduct such Defense will be deemed waived). If the Indemnifying Party validly makes such election, it will nonetheless lose such right to conduct such Defense if it fails to continue to actively and diligently conduct such Defense.

(ii) Conduct of Defense, Participation and Settlement. If the Indemnifying Party conducts the Defense of such Third Party Claim, then (A) the Indemnified Party may participate, at its own expense (except that the Indemnifying Party will be responsible for the fees and expenses of the Indemnified Party's counsel (but not more than one law firm per jurisdiction) if the Indemnified Party reasonably concludes that counsel to the Indemnifying Party has a conflict of interest), in such Defense (including any Proceeding regarding such Third Party Claim) and will have the right to receive copies of all notices, pleadings or other similar submissions regarding such Defense, (B) each Party will keep each other Party reasonably informed of all matters material to such Defense and Third Party Claim at all stages thereof, (C) the Indemnified Party will not (and will cause its Affiliates not to) admit liability with respect to, or compromise or settle, such Third Party Claim without the Indemnifying Party's prior written consent (which consent will not be unreasonably withheld), and (D) there will be no compromise or settlement of such Third Party Claim without the consent of the Indemnified Party (which consent will not be unreasonably withheld).

(iii) Indemnifying Party Does Not Conduct Defense. If the Indemnifying Party does not have the option to conduct the Defense of such Third Party Claim or does not validly elect such option or does not preserve such option (including by failing to commence such Defense within ten (10) days following receipt of such Third Party Claim Notice or within the shorter period, if any, during which a Defense must be commenced for the preservation of rights), then the Indemnified Party may conduct the Defense of such Third Party Claim in any manner that the Indemnified Party reasonably deems appropriate, at the expense of the Indemnifying Party (subject to the other limitations of this Article X), and the Indemnified Party will have the right to compromise or settle such Third Party Claim after receiving the consent of the Indemnifying Party (which consent will not be unreasonably withheld).

(e) Access and Cooperation. Each Party will, and will cause its Affiliates to, cooperate and assist in all reasonable respects regarding such Third Party Claim, including by promptly making available to such other Party (and its legal counsel and other professional advisers with a reasonable need to know) all books and records of such Person relating to such Third Party Claim, subject to reasonable confidentiality precautions.

(f) Reduction for Insurance. Notwithstanding anything contained herein to the contrary, the determination of the amount of any Loss hereunder shall be net of any insurance proceeds received by the Indemnified Party or Parties in connection with such Loss.

Section 11.5 Claims Period. The representations and warranties of the Parties contained in this Agreement or any certificate delivered pursuant hereto shall survive the Closing as set forth in this

Section 11.5. There shall be no limit on the time during which or manner in which Buyer or Seller may bring a claim for intentional fraud. The Claims Period under this Agreement shall commence on the date of this Agreement and:

(a) (i) with respect to Buyer Losses arising from any breach of any representation or warranty in Sections 6.1 (Organization), 6.2 (Authorization), 6.3 (Absence of Restrictions and Conflicts), 6.4 (Title To Purchased Assets), 6.13 (Brokers), and 6.14 (Condition and Sufficiency of Assets), the Claims Period shall continue indefinitely; and (ii) with respect to Buyer Losses arising from any breach of any representation or warranty in Sections 6.8 (Taxes), the Claims Period shall survive Closing until the expiration of the applicable statute of limitations;

(b) with respect to all other Buyer Losses arising under this Agreement, the Claims Period shall terminate on the first anniversary of the Closing Date; and

(c) with respect to all Seller Losses arising under this Agreement, the Claims Period shall terminate on the first anniversary of the Closing Date.

If an Indemnified Party fails to give written notice to the Indemnifying Party of a claim prior to the close of business on the last day of the applicable Claims Period, then such claim will be barred. Notwithstanding the foregoing, if prior to the close of business on the last day of the applicable Claims Period, an Indemnifying Party shall have been properly notified of a claim for indemnity hereunder and such claim shall not have been finally resolved or disposed of at such date, such claim shall continue to survive and shall remain a basis for indemnity hereunder until such claim is finally resolved or disposed of in accordance with the terms hereof.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.1 Notices. All notices and other communications required pursuant this Agreement will be made in writing and shall be deemed duly given (a) on the date of delivery if delivered personally, (b) on the first Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier, (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the earlier of confirmed receipt or the fifth Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid. All notices hereunder shall be delivered to the addresses set forth below:

To Seller:

TJBC, LLC
2029 Century Park East, 19th Fl.
Los Angeles, California 90067

E-mail: travis@brg-la.com
Attention: Peter C. Bronstein

With a copy (which shall not constitute notice) to:
Kramer Holcomb Sheik LLP
1925 Century Park East, Suite 1180

Los Angeles, CA 90067
Phone: (310) 551-0600
Facsimile: (310) 551-0601
E-mail: ssheik@khsllaw.com
Attention: Sheik Shahrokh, Esq.

To Buyer:

All Access Capital LLC
9454 Wilshire Blvd., 6th Floor
Beverly Hills, CA 90212

E-mail: david@allaccesscapital.com
Attention: David Hay

with a copy (which shall not constitute notice) to:

Manatt, Phelps & Phillips, LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064
Phone: (310)312-4256
Facsimile: (310)312-4224
E-mail: MPortnoff@manatt.com
Attention: Matthew A. Portnoff, Esq.

or to such other representative or at such other address as such Party may furnish to the other Parties in writing.

Section 12.2 Assignment; Successors in Interest. No assignment, delegation or transfer by any Party of such Party's rights and obligations under this Agreement, in whole or in part, by operation of law or otherwise, can be made except with the prior written consent of the other Party to this Agreement, and any such assignment without such prior written consent shall be null and void; provided, however, that Buyer may assign this Agreement without the prior consent of Seller (a) to any Affiliate of Buyer or (b) after Closing, in whole or in part, to (i) any lender of Buyer or any of its affiliates; (ii) any wholly-owned subsidiary of Buyer; or (iii) any Person or entity that acquires, directly or indirectly, substantially all of the capital stock or assets of Buyer, whether through a merger, consolidation, purchase of stock, asset purchase or otherwise; provided further, that Seller may assign their rights under this Agreement, including the right to receive the Purchase Price, to one or more Affiliates of Seller without the consent of Buyer; provided still further, that no assignment shall limit the assignor's obligations hereunder. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their successors and permitted assigns, and any reference to a Party will also be a reference to a successor or permitted assign.

Section 12.3 Controlling Law; Amendment. This Agreement and all disputes or controversies arising out of or relating to this Agreement or the transactions contemplated hereby will be governed by and construed and enforced in accordance with the internal laws of the State of California, without reference to its choice of law rules. This Agreement may not be amended, modified or supplemented in any manner, whether by course of conduct or otherwise, except by written agreement signed on behalf of each of the Parties.

Section 12.4 Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but

if any provision of this Agreement is held to be prohibited, invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such provision will be ineffective to the extent of such prohibition, invalidity, illegality or unenforceability without affecting any remaining provision or portion of any provision of this Agreement in such jurisdiction, and the provision in question shall be reformed so as to make it enforceable to the greatest extent necessary to give effect to the provisions hereof. To the extent permitted by law, the Parties waive any provision of law which renders any such provision prohibited or unenforceable in any respect.

Section 12.5 Counterparts; Electronic Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement and the Ancillary Documents delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement or any Ancillary Documents.

Section 12.6 Waiver. No failure or delay of either party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Parties hereunder are cumulative and are not exclusive of any rights or remedies which they would otherwise have hereunder. Any agreement on the part of a Party to any extension or waiver of any provision of this Agreement will be valid only if set forth in an instrument in writing signed on behalf of such Party by a duly authorized officer of such Party. A waiver by a Party of the performance of any provision hereof will not be construed as a waiver of any other provision.

Section 12.7 Cooperation Following the Closing. Following the Closing, each of the Parties shall execute and deliver such further instruments and agreements as the other Party shall reasonably request to consummate or confirm the transactions provided for in this Agreement, to accomplish the purpose of this Agreement or to assure to the other Party the benefits of this Agreement.

Section 12.8 Transaction Costs. Except as provided above or as otherwise expressly provided herein, (a) Buyer will pay its own fees, costs and expenses incurred in connection with this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby, whether or not such transactions are consummated, including the fees, costs and expenses of its financial advisors, accountants and counsel and (b) Seller will pay its own fees, costs and expenses incurred in connection with this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby, whether or not such transactions are consummated, including the fees, costs and expenses of their financial advisors, accountants and counsel.

Section 12.9 Interpretation. When a reference is made in this Agreement to a Section, Article, Schedule or Exhibit such reference shall be to a Section Schedule, Article or Exhibit of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement or in any Exhibit are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein shall have the meaning as defined in this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth herein. The word "including" and words of similar import when used in this Agreement will mean "including, without limitation," unless otherwise specified.

Section 12.10 Entire Agreement. This Agreement (including the Exhibits and Schedules hereto) and the Ancillary Agreements constitute the entire agreement, and supersede all prior written agreements, arrangements, communications and understandings and all prior and contemporaneous oral agreements, arrangements, communications and understandings between the Parties with respect to the subject matter hereof and thereof. Notwithstanding any oral agreement or course of action of the Parties or their Representatives to the contrary, no party to this Agreement shall be under any legal obligation to enter into or complete the transactions contemplated hereby unless and until this Agreement shall have been executed and delivered by each of the Parties.

Section 12.11 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the Parties and their respective successors and permitted assigns any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement, except as provided in Article X.

Section 12.12 Submission to Jurisdiction. Each of the Parties irrevocably agrees that any Action or Proceeding arising out of or relating to this Agreement brought by the other party or its successors or assigns shall be brought and determined in any California State or federal court located in Los Angeles County, California, and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such Action or Proceeding arising out of or relating to this Agreement and the transactions contemplated hereby. Each of the Parties agrees not to commence any Action or Proceeding relating thereto except in the courts described above in California, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in Los Angeles County, California as described herein. Each of the Parties further agrees that notice as provided herein shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action or Proceeding arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in Los Angeles County, California, as described herein for any reason; (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (c) that (i) the Action or Proceeding in any such court is brought in an inconvenient forum; (ii) the venue of such Action or Proceeding is improper; or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Section 12.13 Enforcement. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each of the Parties shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court located in Los Angeles County, California, this being in addition to any other remedy to which such party is entitled at law or in equity. Each of the Parties hereby further waives (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any law to post security as a prerequisite to obtaining equitable relief.

Section 12.14 Attorney's Fees. In the event of any litigation between the Parties with respect to the Purchased Assets, this Agreement, the Escrow, the performance of their obligations hereunder or the effect of a termination under this Agreement, the non-prevailing party as determined by a court shall pay all reasonably incurred costs and expenses incurred by the prevailing party in connection with such litigation including, without limitation, reasonable attorneys' fees. Notwithstanding any provisions of this

Agreement to the contrary, the obligations of the parties under this Section 12.14 shall survive any termination of this Agreement and the Closing.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed, as of
the date first above written.

BUYER:

ALL ACCESS CAPITAL LLC

By:  _____

Name: David Hay _____

Title: Managing Member _____

SELLER:

TJBC LLC

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed, as of
the date first above written.

BUYER:

ALL ACCESS CAPITAL LLC

By: _____

Name: _____

Title: _____

SELLER:

TJBC LLC

By: 5/17/16  _____

Name: Travis Lester _____

Title: Managing Member _____

EXHIBIT A

- Two (2) six tap draft systems
- Two (2) three door micro-matic short draw keg storage coolers
- One (1) 24" reach in cooler for glasses
- Three (3) 36" prep/ storage table
- One (1) three-compartment sink
- Two (2) speed wells
- Twenty Nine (29) tables
- One (1) Walk-in cooler
- One (1) 24" true cooler with prep top
- One (1) 8' L shape granite table
- One (1) 24" flat top griddle
- Two (2) 40lb dean deep fryers
- One (1) six-burner imperial stove top w/ oven
- One (1) 48" prep table
- One (1) 72" prep table
- One (1) 36" prep sink
- One (1) L shape three-compartment dish sink
- One (1) Butler dishwasher
- Two (2) 60" l shape storage shelves
- Ten (10) 48" storage shelves
- One (1) 20qt Hobart floor mixer
- One (1) wood Burning brick oven
- One (1) 8ft 3 door food cooler with prep top
- One (1) 8ft storage floor shelf
- One (1) industrial heaters
- Two (2) ceiling fans

EXHIBIT B

- City of Los Angeles Conditional Use Permit
- On-Site General Eating Type 47 ABC Liquor License
- Off-Site Catering Type 58 ABC Liquor License
- City of Los Angeles Fire Permit
- City of Los Angeles Business Tax Registration Certificate
- BOE Seller's Permit
- County of Los Angeles Public Health Permit
- Certificate of Occupancy – City of Los Angeles Fire Department

EXHIBIT C

- Landlord Consent
- Satisfactory written evidence from the City of Los Angeles that no grease trap is required to operate the Restaurant for food and beverage operations

EXHIBIT D

1. Southern Wine and Spirits

- a. *Southern Wine v. TJBC & Fatty's Public House*
- b. Judgment entered 3/22/16
- c. \$1414.82

2. City and State Tax Liens

- a. *Fatty's Public House*
- b. LA County Tax Collector (11/21/13)- \$1886.57
- c. LA County Tax Collector (12/11/14)- \$2270.96
- d. State Tax (Employment Dev. Dept (EDD); 05/18/15)- \$3691.74
- e. State Tax (Employment Dev. Dept (EDD); 07/22/15)- \$2690.10
- f. State Tax (Employment Dev. Dept (EDD); 09/25/15)- \$4543.22

3. UCC and Tax Liens

- a. *Fatty's Public House*
- b. UCC statement by Sysco Los Angeles- filed 02/05/14- security interest on all goods
- c. State Tax (Employment Dev. Dept (EDD); 05/21/15)- \$3515.14
- d. State Tax (Employment Dev. Dept (EDD); 08/18/15)- \$1990.42
- e. State Tax (Employment Dev. Dept (EDD); 11/12/15)- \$721.10

4. State Tax Lien

- a. *Open Air Kitchen*
- b. LA County Tax Collector (12/15/15)- \$2998.12

5. Pending Suits

- a. *TJBC LLC*
- b. Southern Wine v. TJBC (see item 1 above- same amount, same claim)
- c. Morris v. TJBC

6. State Tax Lien

- a. *TJBC LLC*
- b. State Tax (CA Board of Equalization (12/11/15)- \$10,506.98
 - i. 10/08/14 (for period 08/01/14 to 08/31/14)- \$194.00
 - ii. 05/22/15 (for period 01/01/15 to 03/31/15)- \$6217.98
 - iii. 04/15/15 (for period 02/01/15 to 02/28/15)- \$3500

7. UCC, Tax Liens

- a. *TJBC LLC*
- b. UCC lien- Oakfire Pizza Co. Inc (UCC financing statement) 07/03/12

EXHIBIT E

- a. Southern Wine v. TJBC & Fatty's Public House
- b. Morris v. TJBC

DISCLOSURE SCHEDULES

Schedule	Description	Exhibit	Notes
2.1(a)	Equipment List	Exhibit A	
2.1(d)	<i>Assumed Pre-Paid Expenses</i>	<i>n/a</i>	
2.1(e)	<i>Assumed Contracts</i>	<i>n/a</i>	
2.1(f)	Inventory	Exhibit A	
2.1(g)	Permits	Exhibit B	
5.3	Consents	Exhibit C	
5.4	Liens	Exhibit D	
5.5	Legal Proceedings	Exhibit E	
5.6(b)	Permits	Exhibit B	

Exhibit 1.1

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT ("**Assignment**") dated [_____, 2016], is made by and among Bernard B. Becker and Marlene G. Becker, individually, and as Trustees of the Becker Living Trust ("**Trust**" or "**Lessor**"), TJBC, LLC, a California limited liability company ("**TJBC**" or "**Assignor**"), and All Access Capital LLC, a California Limited Liability Company. This Assignment is made in reference to the facts set forth below.

RECITALS

A. Marlene G. Becker, as lessor ("**Original Lessor**"), and Nazrul I. AH and Faisal Ali (collectively, "**Ali**"), entered into a written lease dated April 1, 1992 (the "**Original Lease**"), in which Lessor leased to Ali the premises located in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 829 North La Cienega Boulevard (the "**Original Premises**"), and more particularly described in the Original Lease.

B. Original Lessor and Ali entered into a First Amendment of Lease dated September 15, 1992 (the "**First Amendment**"), in which the property described in the First Amendment was added to the Original Lease (this additional property together with the Original Premises is referred to herein as the "**Premises**").

C. The Original Lease, as amended, was assigned by Ali to Anthony Cacciotti ("**Cacciotti**") and Amici Di Los Angeles, a California corporation ("**Amici**"), pursuant to a written Assignment of Lease dated June 21, 1993, and to which Marlene G. Becker as lessor consented.

D. Lessor and Cacciotti, Amici, and Brian Reed ("**Reed**") entered into a Second Amendment of Lease dated April 1, 1996 (the "**Second Amendment**"), in which Reed was added as a lessee.

E. The Original Lease, as amended, was assigned by Cacciotti and Amici to Reed pursuant to a written Assignment of Lease dated June 20, 1997, and to which Original Lessor, as lessor, consented.

F. The Original Lease, as amended, was assigned by Reed to Jean Francois Meteigner ("**Meteigner**"), Jean Francois, Inc. ("**Jean**"), and Bistro Provencal, Ltd., a California limited partnership ("**Bistro**"), pursuant to a written Assignment of Lease dated October 7, 1997, and to which Original Lessor, as lessor, consented.

G. Original Lessor, as lessor, and Meteigner, Jean, and Bistro entered into a Third Amendment of Lease dated October 7, 1997 ("**Third Amendment**").

H. The Original Lease, as amended, was assigned by Meteigner, Jean, and Bistro to Thaddeus Smith ("**Smith**") and John Lahr ("**Lahr**"), pursuant to a written Assignment of Lease dated February 24, 1999, and to which Original Lessor, as lessor consented.

I. Original Lessor conveyed the Premises to the Trust on May 14, 2002, whereby the Trust became the lessor of the property.

J. Lessor, Smith and Lahr entered into a Fourth Amendment of Lease dated January 1, 2004.

K. The Original Lease, as amended, was assigned by Smith and Lahr to Greg Morris ("**Morris**") pursuant to a written assignment of Lease dated May 21, 2012, and to which the Lessor consented.

- L. Lessor and Morris entered into a Fifth Amendment of Lease dated May 21, 2012.
- M. The Original Lease, as amended, was assigned by Morris to TJBC pursuant to a written Assignment of Lease dated _____, 20__, and to which Lessor, as lessor, consented.
- N. The Original Lease, as amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment and Fifth Amendment is referred to herein as the "***Lease***."
- O. Assignor desires to assign all of its right, title and interest in and to the Lease and the Premises to Assignee, and Assignee desires to assume all liabilities under the Lease.
- P. Lessor consents to the proposed assignment on the conditions set forth in this Assignment.

AGREEMENT

1. **Effective Date of Assignment.** This Assignment shall take effect immediately upon the closing of the sale of the business located at the Premises (the "***Effective Date***") to Assignee, which escrow is currently pending at Federal Escrow, Inc., 23734 Valencia Blvd., Valencia, California 91355, escrow number [_____] ("***Sale Escrow***"). Assignee will promptly notify Lessor of the such closing.
2. **Assignment and Assumption.** Assignor assigns, transfers and conveys to Assignee all of its right, title and interest in, to and under the Lease, free and clear of any encumbrances, together with such other rights, causes of action and remedies as may arise by operation of law, in law or equity, in connection with the Lease, and Assignee accepts the assignment and assumes and agrees to perform, from the Effective Date, as a direct obligation to Lessor, all provisions of the Lease.
3. **Lessor's Consent.** Lessor consents to the assignment without waiver of the restriction concerning further assignment.
4. **Insurance.** Assignee agrees to promptly obtain a Certificate of Insurance naming Lessor as an additional insured on its liability insurance as required under Paragraph 8.2(a) of the Lease.
5. **Security Deposit.** The parties hereto acknowledge that Lessor now holds the sum of [\$_____] as a security deposit for the benefit of Assignee, to be applied in accordance with the provisions of the Lease. Assignor releases all claims to that sum.
6. **Release of Assignor.** Except as otherwise provided in this Agreement, this Agreement shall operate to release Assignor from its liability to Lessor under the Lease as of the Effective Date.
7. **Conditions to Effectiveness of this Assignment.** This Assignment shall not be effective until all of the following conditions for the benefit of Lessor have been satisfied. Assignor and Assignee will provide instructions to the Sale Escrow in which this Assignment will be deposited that this Assignment is not to be delivered to Assignor and Assignee until Lessor has advised the Sale Escrow that the following conditions have been met:
 - (a) All real property taxes due at a proration to Lessor with regard to the Premises as of the Effective Date shall be paid to Lessor by Assignor.
 - (b) All rent payable under the Lease to be current as of the Effective Date and all late payment penalties due under the Lease will have been paid.
 - (c) On or before the Effective Date, Lessor is presented with evidence that all

insurance coverage required by the Lease are in effect.

(d) [Assignee has paid to Lessor the amount of [\$_____] as additional security deposit to be held by Lessor under the security deposit provisions of the Lease.]

8. Personal Property of Lessor. Attached hereto as Exhibit A is a list of certain personal property currently located in the Premises which all parties hereto acknowledge is owned by Lessor.

9. Miscellaneous.

(a) **Attorney's Fees.** If any party hereto commences an action against any of the other parties arising out of or in connection with this Assignment, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees, expert witness, accountant and paralegal fees, and costs of suit, including attorney's fees incurred in post judgment proceedings.

(b) **Successors and Assigns.** Subject to the provision of the Lease, this Assignment shall be binding on, and inure to the benefit of, the parties and their successors and assigns.

(c) **Notice.** All notices, requests, demands, and other communications under this Assignment shall be in writing and shall be deemed to have been duly given on the date of service if served personally and on the party to whom notice is to be given, on the date of receipt (or refusal to accept receipt) if delivered by overnight delivery service to the party to whom notice is to be given, or on the third business day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

To Lessor:

Marlene G. Becker
2016 Holmby Avenue
Los Angeles, CA 90025

With a copy to:

[_____]

To Assignor:

TJBC, LLC
[_____]

With a copy to:

Kramer, Holcomb & Sheik LLP
1925 Century Park East, Suite 1180
Los Angeles, CA 90067
E-mail: ssheik@khsllaw.com
Attn: Shahrokh Sheik, Esq.

To Assignee:

All Access Capital LLC
9454 Wilshire Blvd., 6th Floor
Beverly Hills, CA 90212

E-mail: David@allaccesscapital.com

Attn: David Hay

With a copy to:

Manatt, Phelps & Phillips, LLP

11355 W. Olympic Blvd.

Los Angeles, CA 90064

E-mail: MPortnoff@manatt.com

Attention: Matthew A. Portnoff, Esq.

(d) Further Acts. Lessor, Assignor and Assignee hereby covenant that each will, at any time and from time to time upon request by the other, and without the assumption of any additional liability thereby, execute and deliver such further documents and do such further acts as such party may reasonably request in order to fully effect the purpose of this Assignment.

(e) No Third Party Beneficiaries. The terms and provisions of this Agreement are intended solely for the benefit of the parties and their respective permitted successors or assigns, and it is not the intention of the parties to confer, and this Agreement shall not confer, third-party beneficiary rights upon any other person.

(f) Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties and their legal representatives, successors and assigns.

(g) Counterparts. This Agreement may be executed in one or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument. The facsimile signature of any party to this Agreement or a PDF copy of the signature of any party to this Agreement delivered by electronic mail for purposes of execution or otherwise, is to be considered to have the same binding effect as the delivery of an original signature on an original instrument.

(h) Governing Law. The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any choice or conflict of law provision or rule thereof. Any proceeding which arises out of or relates in any way to the subject matter of this Agreement shall be brought solely in the state and federal courts located in Los Angeles, California, and the Parties both consent to the jurisdiction and venue of each such court. The prevailing party in any action or suit for breach by another party of any of the covenants, conditions, agreements or provisions of this Agreement shall be entitled to recover all costs and expenses of the action or suit, including reasonable attorneys' fees.

(i) Entire Agreement. This Assignment is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties.

[Signatures to follow.]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the date first above written.

LESSOR

Marlene G. Becker, an Individual

Bernard B. Becker, an Individual

Becker Living Trust

By: _____
Marlene G. Becker
Its: Trustee

By: _____
Bernard B. Becker
Its: Trustee

ASSIGNOR

TJBC, LLC,
a California limited liability company

By: _____
Travis Lester
Its: Managing Member

ASSIGNEE

All Access Capital LLC,
a California limited liability company

By: _____
David Hay
Its: Managing Member

EXHIBIT A

Lease, Amendments and Assignments

[Copies to be attached]

EXHIBIT B

Personal Property of Lessor

1. Kitchen wood block table
2. Dishwasher
3. Stainless steel sink unit
4. Walk-in cooler
5. Beverage cooler in the bar
6. Two six-burner stoves with oven
7. Fryer
8. Gas charbroiler
9. Two drawer refrigerator unit
10. Center steam table with two door refrigerator
11. Stainless steel work table
12. Three metal wire racks (in walk-in cooler)
13. One metal rack holder
14. Two door freezer
15. One metal floor rack

Exhibit 1.2

BILL OF SALE AND ASSIGNMENT AGREEMENT

THIS BILL OF SALE AND ASSIGNMENT AGREEMENT (the “*Bill of Sale*”) is made and effective as of _____, 2016, by TJBC, LLC, a California limited liability company (“*Seller*”), in favor of All Access Capital, LLC, a California limited liability company (“*Buyer*”). All capitalized terms used and not otherwise defined in this Bill of Sale shall have the respective meanings set forth in the Asset Purchase Agreement described below.

WHEREAS, Buyer and Seller have entered into an Asset Purchase Agreement dated as of _____, 2016 (the “*Asset Purchase Agreement*”).

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged:

1. Assignment and Assumption. Subject to the terms and conditions of the Acquisition Agreement, Seller hereby sells, conveys, transfers and assigns to Buyer all of Seller’s right, title and interest in and to all of the Purchased Assets free and clear of any and Liens, to have and to hold the same, with the appurtenances thereof, unto Buyer, its successors and assigns forever, to and for their own use and benefit.

2. Power of Attorney. For the consideration aforesaid, Seller hereby constitutes and appoints Buyer, its successors and assigns, the true and lawful attorney or attorneys of Seller, with full power of substitution, for Seller and in its name and stead, or otherwise, but on behalf, and for the benefit, of Buyer, its successors and assigns, to demand and receive from time to time, any and all properties hereby given, granted, bargained, sold, assigned, transferred, conveyed, set over, confirmed or delivered and to give receipts and releases for and in respect of the same and any part thereof, and from time to time to institute and prosecute in the name of Seller or otherwise, but for the benefit of Buyer, its successors and assigns, any and all proceedings at law, in equity or otherwise, which Buyer, its successors or assigns, may deem proper in order to collect, assert or enforce any claim, right or title of any kind in and to the properties hereby given, granted, bargained, sold, assigned, transferred, set over, confirmed, delivered or conveyed, and to defend or compromise any or all actions, suits or proceedings in respect of any of said properties and do all such acts and things in relation thereto as Buyer, its successors and assigns, shall deem advisable, Seller hereby declaring that the appointment made and the powers hereby granted are coupled with an interest and are and shall be irrevocable by Seller in any manner and for any reason.

3. Covenants. Seller, for itself and its successors and assigns, does hereby covenant with Buyer, its successor and assigns, that Seller and its successors and assigns shall do, execute, acknowledge and deliver, or shall cause to be done, executed, acknowledged and delivered all such further acts, deeds, bills of sale, transfers, assignments, conveyances, powers of attorney, conveying and confirming unto Buyer, its successors and assigns, all and singular, the properties hereby granted, sold, assigned, transferred, conveyed and delivered as Buyer, its successors or assigns, shall reasonably require.

4. Required Consents. To the extent that the assignment of any claim, suit, contract, license, lease, charter, commitment, sales order or purchase order to be assigned to Buyer hereby shall require the consent of the other party thereto, this instrument shall not constitute an assignment of the same if such consent has not been given and if an assignment or attempted assignment without such consent of said other party would constitute a breach thereof or in any way adversely affect the rights, powers, privileges, or liabilities of Seller or Buyer thereunder; provided, however, that once such consent

is obtained, this instrument shall effect an assignment of such claim, suit, contract, license, permit, lease, charter, commitment, sales order or purchase order. Seller agrees that it shall use its commercially reasonable efforts to obtain any required consent of the other party or parties to all such claims, suits, contracts, licenses, leases, charters, commitments, sales orders or purchase orders of Seller to the assignment thereof to Buyer and shall cooperate with Buyer in any arrangement which Buyer shall consider reasonably designed to provide for Buyer the benefits under any such claims, suits, contracts, licenses, leases, charters, commitments, sales orders or purchase orders which are not assigned hereby, including enforcement for the benefit of Buyer of any and all rights, powers and privileges of Seller against the other party or parties thereto arising in respect of any default, breach of cancellation by such other party or parties or otherwise.

5. Headings. The headings contained in this Bill of Sale are for reference purposes only and shall not affect in any way the meaning or interpretation of this Bill of Sale.

6. Third Party Actions. Seller hereby agrees to cooperate in defending or prosecuting any claims or litigation relating to the transfer of title as provided herein, and to make available and furnish appropriate documents and testimony in connection therewith.

7. No Third-Party Beneficiaries. This Bill of Sale is not intended and shall not be deemed to confer upon or give any person except the parties to this Bill of Sale and the parties to the Asset Purchase Agreement and their respective successors and permitted assigns any right, title, interest, remedy, claim, liability, reimbursement, cause of action or other right under or by reason of this Bill of Sale.

8. Governing Law. This Bill of Sale shall be construed and enforced in accordance with the laws of the State of California, regardless of the laws that might otherwise govern under applicable principles of conflicts laws thereof.

9. Conflict with Asset Purchase Agreement. Nothing contained in this Bill of Sale shall be deemed to supersede or modify any of the obligations, agreements, covenants or warranties of Seller or Buyer contained in the Asset Purchase Agreement. In the event that any provision of this Bill of Sale be constructed to conflict with a provision in the Asset Purchase Agreement, the provision in the Asset Purchase Agreement shall be deemed to be controlling.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, Seller and Buyer have each caused this Bill of Sale to be duly executed and delivered as of the date first written above.

ALL ACCESS CAPITAL, LLC,
California limited liability company

By: _____

Name:

Title:

TJBC, LLC,
a California limited liability company

By: _____

Name:

Title:

Exhibit 1.3

LIQUOR LICENSE TRANSFER AGREEMENT

THIS LIQUOR LICENSE TRANSFER AGREEMENT (this "Agreement") is dated as of _____, 2016 ("Effective Date"), is being executed by and between All Access Capital LLC, a California limited liability company ("Buyer") and TJBC, LLC, a California limited liability company ("Seller"), and shall serve as an agreement between all parties for the sale and transfer of the License (as defined below). The parties hereto hereby agree as follows:

1. Definitions. For the purposes of this Agreement the following terms will be defined as follows:

(a) "Closing," and "Closing Date" are terms used interchangeably in this Agreement. The Closing or the Closing Date with respect to the License (as defined below) shall occur on the earlier to occur of: (1) the first business day after that period of time which is five (5) days after receipt by Buyer of written notice that the Department (as defined below) has approved the application for the transfer of the License to Buyer or Buyer's designee or (2) the Outside Date.

(b) "Department" shall mean the California Department of Alcoholic Beverage Control.

(c) "Deposit" shall mean the amount of \$_____, which shall be deposited by Buyer in the Escrow pursuant to this Agreement.

(d) "Effective Date" shall mean the date from which all dates in this Agreement will be measured, shall be the date of this Agreement.

(e) "Escrow" shall have the meaning given thereto in Paragraph 4 hereof.

(f) "Escrow Holder" Federal Escrow, Inc.

(g) "License" shall mean the existing Type 47 "On-Sale General Eating Place" liquor license for Open Air Kitchen, which bears Alcoholic Beverage License Type Number 350485, used in the operation of the Restaurant, and has been issued by the Department, as may be amended, modified, supplemented or renewed.

(h) "Notices" shall mean those certain written notices sent as follows to:

If to Seller: INSERT SELLER NOTICE INFORMATION HERE.

If to Buyer: INSERT BUYER NOTICE INFORMATION HERE.

(i) "Opening of Escrow" shall have the meaning given thereto in Paragraph 4 hereof.

(j) "Outside Date" Date shall mean the date that is ninety (90) days after the Effective Date.

(k) "Transfer Price" means the transfer price for the License which shall be equal to the Deposit.

2. Transfer. Upon and subject to the terms and conditions set forth in this Agreement, Seller agrees to transfer all of Seller's right, title and interest in, to and under the License. In consideration of Seller's transfer of the License to Buyer, Buyer will pay to Seller the Transfer Price.

3. Transfer Price. Upon the Opening of Escrow (as defined in Paragraph 4 below), Buyer shall deliver the Deposit to Escrow Holder.

4. Escrow.

(a) Opening of Escrow. As soon as reasonably practicable after the mutual execution of this Agreement, Buyer and Seller will open an escrow (the "Escrow") with the Escrow Holder by delivering to Escrow Holder a fully executed copy of this Agreement and copies of the License, delivery of which copies shall be the responsibility of Seller, and in accordance with the provisions of the Alcoholic Beverage Control Act and Title 4, California Code of Regulations (the "Opening of Escrow"). The transfer of the License will be completed through the Escrow. Buyer and Seller agree to execute any additional instructions reasonably required by the Escrow Holder. If there is a conflict between any printed escrow instructions and this Agreement, the terms of this Agreement will govern.

(b) Closing. The Closing for the License shall occur on the Closing Date. In the event that the Department disapproves the application for the transfer of the License to Buyer or Buyer's designee, and Buyer has notified the Escrow Holder of such disapproval, Escrow shall terminate, Escrow Holder shall immediately deliver the Deposit to Buyer.

5. Deliveries to Escrow Holder.

(a) By Seller. On or prior to the Closing Date, Seller will deliver or cause to be delivered to Escrow Holder the following items:

(i) Three original executed copies of a Bill of Sale for the License ("Bill of Sale"), in the form attached to this Agreement as Exhibit A, duly executed and acknowledged by Seller conveying the License to Buyer; and

(ii) Such other instruments and documents required by the Department and as may be reasonably requested by Escrow Holder relating to Seller, to the License and as otherwise required to transfer the License to Buyer pursuant to the terms and conditions of this Agreement and the requirements of applicable local and state law.

(b) By Buyer. On or prior to the Closing Date, Buyer shall deliver or cause to be delivered to Escrow Holder the following items:

(i) Any funds to cover its share of the escrow fees and costs, pursuant to Section 8; and

(ii) Such other instruments and documents as may be reasonably required by Escrow Holder relating to Buyer, to the License, or as otherwise required to transfer the License to Buyer pursuant to the terms and conditions of this Agreement and the requirements of applicable local and state law.

6. Application for Transfer. As soon as reasonably practical after the Effective Date, Buyer shall file or cause to be filed with the Department an application for the transfer of the License to Buyer

or Buyer's designee. Buyer shall pay all application fees required by the Department in connection with the transfer of the License.

7. Termination. If this Agreement is terminated, Buyer and Seller shall each pay ½ of any Escrow termination fees.

8. Costs and Expenses. With respect to the Closing, Buyer and Seller will each pay ½ of all escrow fees and costs. In connection with the proposed transaction, Buyer and Seller will each pay all of their own legal and professional fees, fees of other consultants, and all other expenses incurred by Buyer and Seller, respectively.

9. Disbursements and Other Actions by Escrow Holder. At the Closing, Escrow Holder will promptly undertake all of the following:

(a) Funds. Disburse all funds deposited with Escrow Holder by Buyer as follows:

(i) deliver to Seller the Transfer Price, less the amount of all items, costs and prorations chargeable to the account of Seller pursuant to the requirements of the Department and any and all applicable local or state laws and requirements;

(ii) deliver to Escrow all escrow fees and costs; and

(iii) disburse the remaining balance, if any, of the funds deposited by Buyer to Buyer, less amounts chargeable to Buyer.

(b) Delivery of Documents to Buyer or Seller. Deliver to Buyer two (2) originals of the Bill of Sale, and any other documents (or copies thereof) deposited into Escrow by Seller, and the original License. Deliver to Seller one (1) original of the Bill of Sale, and any other documents (or copies thereof) deposited into Escrow by Buyer.

10. Joint Representations and Warranties. In addition to any express agreements of the parties contained herein, the following constitute representations and warranties of the parties each to the other:

(a) Authority. Each party has the legal power, right and authority to enter into this Agreement and the instruments referenced herein and to consummate this transaction.

(b) Actions. All requisite action (corporate, trust, partnership or otherwise) has been taken by each party in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of this transaction. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority or other party is required.

(c) Due Execution. The individuals executing this Agreement and the instruments referenced herein on behalf of each party and the partners, officers, members or trustees of each party, if any, have the legal power, right, and actual authority to bind each party to the terms and conditions of those documents.

(d) Valid and Binding. This Agreement and all other documents required to close this transaction are and will be valid, legally binding obligations of and enforceable against each party in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization,

moratorium laws or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

11. Seller's Warranties and Representations. Seller makes the following representations, covenants and warranties and acknowledges that Buyer will rely on such representations, covenants and warranties in acquiring the License, which will survive the Closing: (i) the License is and as of the date of Closing shall be in full force and effect, (ii) Seller is the sole owner of the License, (iii) Seller has not previously transferred the License, or any interest therein, to any other party and has the full power and authority to transfer such License to Buyer in accordance with this Agreement, (iv) Seller shall clear any outstanding violations that may exist in connection with the License, and (v) Seller represents that there are no payments that are past due or outstanding to any governing authorities having jurisdiction over the License.

12. Covenants. So long as this Agreement remains in full force and effect:

(a) Without the prior written consent of Buyer, Seller will not convey any interest in the License and will not amend, modify, renew, extend or terminate the License without the prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

(b) Seller will keep and perform all of the obligations to be performed by Seller under the License to keep it in full force and effect and to permit the License to be sold to Buyer as provided herein.

(c) Buyer shall use commercially reasonable efforts to diligently prosecute its application for the transfer of the License.

13. Indemnification.

(a) Indemnification By Seller. Seller agrees to indemnify, defend and hold Buyer harmless for, from and against any and all claims, demands, liabilities, costs, expenses, damages and losses, cause or causes of action and suit or suits of any nature whatsoever arising from any use of the License prior to the Closing and from any misrepresentation or breach of a warranty or covenant by Seller in this Agreement or any document delivered to Buyer pursuant to this Agreement.

(b) Indemnification By Buyer. Buyer agrees to indemnify, defend and hold Seller harmless for, from and against any and all claims, demands, liabilities, costs, expenses, damages and losses, cause or causes of action and suit or suits of any nature whatsoever arising out of Buyer's use of the License after the Closing and from misrepresentation or breach of warranty or covenant by Buyer in this Agreement or any document delivered to Seller pursuant to this Agreement.

(c) Survival. The provisions of this Paragraph will survive the Closing.

14. Remedies and Liquidated Damages.

(a) Remedies. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants, agreements and/or conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to be reimbursed for all

costs incurred or expended in connection therewith, including, but not limited to, reasonable attorneys' fees (including appellate fees) and court costs.

(b) Liquidated Damages. IF BUYER DEFAULTS IN ITS OBLIGATION TO CLOSE THE PURCHASE OF THE LIQUOR LICENSE ON THE CLOSING DATE OR OTHERWISE BREACHES ANY OF THE COVENANTS SET FORTH IN THIS AGREEMENT, SELLER SHALL HAVE AS ITS SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT THE RIGHT TO TERMINATE THIS AGREEMENT AND RETAIN A PORTION OF THE DEPOSIT EQUAL TO \$100 ("NONREFUNDABLE PORTION") AS FULL, AGREED AND LIQUIDATED DAMAGES. THE PARTIES HERETO EXPRESSLY AGREE AND ACKNOWLEDGE THAT IN THE EVENT OF A DEFAULT BY BUYER, SELLER'S ACTUAL DAMAGES WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO ASCERTAIN, THAT THE NONREFUNDABLE PORTION REPRESENTS THE PARTIES' REASONABLE ESTIMATE OF SUCH DAMAGES, AND THAT SUCH AMOUNT IS NOT UNREASONABLE UNDER THE CIRCUMSTANCES EXISTING AT THE TIME THIS AGREEMENT WAS MADE. THE PAYMENT OF THE NONREFUNDABLE PORTION AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369.

SELLER'S INITIALS: _____ BUYER'S INITIALS: _____

15. Miscellaneous.

(a) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together, shall constitute one and the same instrument.

(b) Partial Invalidity. If any term or provision of this Agreement will be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement will not be affected thereby, and each remaining term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

(c) Notices. All notices or other communications required or permitted hereunder must be in writing, and must be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested or if by facsimile, with electronic confirmation of good receipt by receiving facsimile machine to the addressees set forth in Paragraph 1. All notices sent by mail will be deemed received 3 days after the date of mailing and all notices sent by other means permitted herein shall be deemed received on the date delivered. Buyer and Seller hereby agree that notices may be given hereunder by the parties' respective counsel and that, if any communication is to be given hereunder by Buyer's or Seller's counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Paragraph.

(d) Broker. Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller, that no broker or finder has been engaged by them, respectively, in connection with any of the transactions contemplated by this Agreement, or to its knowledge is in any way connected with any of such transactions. Buyer will indemnify, save harmless and defend Seller from any liability, cost, or expense arising out of or connected with any claim for any commission or compensation made by any person or entity claiming to have been retained or contacted by Buyer in connection with this transaction. Seller will indemnify, save harmless and defend Buyer from any liability, cost, or expense arising out of or connected with any claim for any commission or compensation made by any person or entity claiming to have been retained or contacted by Seller in connection with this transaction. This indemnity provision will survive the Closing, or any earlier termination of this Agreement.

(e) Waivers. No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision contained herein. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which will be extended by a period of time equal to the period of the delay.

(f) Successors and Assigns. This Agreement is binding upon and inures to the benefit of the permitted successors and assigns of the parties hereto.

(g) Professional Fees. In the event of the bringing of any action or suit by a party hereto against another party hereunder related to this Agreement or the License, then in that event the prevailing party will be entitled to have the recovery of and from the other party all costs and expenses of the action or suit, actual attorneys' fees, witness fees and any other professional fees resulting therefrom.

(h) Entire Agreement. This Agreement (including all Exhibits attached hereto) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and may not be modified except by an instrument in writing signed by the party to be charged.

(i) TIME OF ESSENCE. SELLER AND BUYER HEREBY ACKNOWLEDGE AND AGREE THAT TIME IS STRICTLY OF THE ESSENCE WITH RESPECT TO EACH AND EVERY TERM, CONDITION, OBLIGATION AND PROVISION HEREOF.

(j) Construction. This Agreement has been prepared by Buyer and its professional advisors and reviewed by Seller and its professional advisers. Buyer and Seller and their respective advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement and that it should not be interpreted in favor of or against either Buyer or Seller. The parties further agree that this Agreement will be construed to effectuate the normal and reasonable expectations of a sophisticated Buyer and Seller.

(k) Governing Law. The parties hereto expressly agree that this Agreement will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

(l) Confidentiality. Unless otherwise agreed to herein or in writing by Seller and Buyer, each party will keep confidential all documents, financial statements, reports or other information provided to, or generated by the other party relating to the License and will not disclose any such information to any person other than (i) those employees and agents of Seller or Buyer; (ii) those who are actively and directly participating in the evaluation and the negotiation and execution of this Agreement; (iii) Escrow Holder; and (iv) governmental, administrative, regulatory or judicial authorities in the investigation of the transfer of the License. The provisions of this Paragraph will survive the termination of this Agreement other than by Closing.

(m) Survival. All obligations of the parties contained herein which by their terms do not arise until after the Closing, and any other provisions of this Agreement which by their terms survive the Closing, shall survive the Closing.

(n) Amendments. This Agreement may be amended only by written agreement signed by the parties hereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year hereinabove written.

BUYER:

All Access Capital, LLC,
a California limited liability company

By: _____
David Hay
Its: Manager

SELLER:

TJBC, LLC,
a California limited liability company

By: _____
Name:
Its: Authorized Signatory

EXHIBIT A

BILL OF SALE

LIQUOR LICENSE BILL OF SALE AND ASSIGNMENT OF INTANGIBLES

THIS LIQUOR LICENSE BILL OF SALE AND ASSIGNMENT OF INTANGIBLES ("Assignment") is made by and between All Access Capital LLC, a California limited liability company ("Assignee") and TJBC, LLC, a California limited liability company ("Assignor"), with reference to the following facts:

A. Assignor and Assignee have entered into that certain LIQUOR LICENSE TRANSFER AGREEMENT dated as of _____, 2016 ("Agreement"). Any capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

B. Pursuant to the terms and conditions of the Agreement, Assignor desires to assign to Assignee any and all of Assignor's right, title and interest in, under and to the existing liquor license for the Open Air Kitchen, which bears Alcoholic Beverage License Type Number 350485, and has been issued by the Department, as may be amended, modified, supplemented or renewed (collectively, "License").

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Effective as of the Closing (as defined in the Agreement), Assignor hereby sells, assigns, conveys, and transfers to Assignee any and all of Assignor's right, title, claim and interest in, under and to the License.

2. Effective as of the Closing, Assignee accepts the assignment made hereby and shall be entitled to all rights and benefits accruing to the Assignor thereunder.

3. Assignor hereby represents and warrants to Assignee that no previous assignment of any interest in the License has been made and that Assignor is the sole owner of good title to the License free and clear of all liens, encumbrances and rights in favor of third parties. Assignor covenants that Assignor will, at any time and from time to time upon written request therefor, execute and deliver to Assignee and Assignee's successors and assigns such documents as Assignee or they may reasonably request in order to fully assign and transfer to and vest in Assignee or Assignee's successors and assigns and protect Assignee and Assignee's successors and assigns to realize upon or otherwise enjoy such rights and property.

4. The provisions of this Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

5. This instrument shall be construed in accordance with, and the rights of the parties hereunder shall be governed by, the laws of the State of California.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first set forth above.

ASSIGNEE:

All Access Capital, LLC,
a California limited liability company

By: _____
David Hay
Its: Manager

ASSIGNOR:

TJBC, LLC,
a California limited liability company

By: _____
Name:
Its: Authorized Signatory

Exhibit 2

ASSIGNMENT OF LEASE

This Assignment of Lease ("Assignment") dated May 21, 2012, is made by and among Bernard B. Becker and Marlene G. Becker, individually, and as Trustees of the Becker Living Trust (the "Trust" or sometimes "Lessor"), whose address is 2016 Holmby Avenue, Los Angeles, California 90025, Greg Morris ("Morris" or "Assignor"), whose address is 5830 Foothill Dr., Los Angeles, CA 90068-3613, and TJBC, LLC, a California Limited Liability Company ("Assignee"), whose address is 829 La Cienega Blvd, Los Angeles, CA 90069, who agree as follows:

1. **Recitals.** This Assignment is made with reference to the following facts:

a. Marlene G. Becker as lessor (sometimes "Lessor") and Nazrul I. Ali and Faisal Ali (collectively, "Ali") entered into a written lease dated April 1, 1992 (the "Original Lease"), in which Lessor leased to Ali premises located in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 829 North La Cienega Boulevard (the "Original Premises"), and more particularly described in the Original Lease.

b. Marlene G. Becker as lessor and Ali entered into a First Amendment of Lease dated September 15, 1992 (the "First Amendment"), in which the property described in the First Amendment was added to the Original Lease (this additional property together with the Original Premises is referred to herein as the "Premises").

c. The Original Lease, as amended, was assigned by Ali to Anthony Cacciotti ("Cacciotti") and Amici Di Los Angeles, a California corporation ("Amici") pursuant to a written Assignment of Lease dated June 21, 1993, and to which Marlene G. Becker as lessor consented.

d. Lessor and Cacciotti, Amici, and Brian Reed ("Reed") entered into a Second Amendment of Lease dated April 1, 1996 (the "Second Amendment"), in which Reed was added as a lessee.

e. The Original Lease, as amended, was assigned by Cacciotti and Amici to Reed pursuant to a written Assignment of Lease dated June 20, 1997, and to which Marlene G. Becker as lessor consented.

f. The Original Lease, as amended, was assigned by Reed to Jean Francois Meteigner ("Meteigner"), Jean Francois, Inc. ("Jean"), and Bistro Provencal, Ltd. ("Bistro") pursuant to a written Assignment of Lease dated October 7, 1997, and to which Marlene G. Becker as lessor consented.

g. Marlene G. Becker as Lessor and Meteigner, Jean, and Bistro entered into a Third Amendment of Lease dated October 7, 1997 ("Third Amendment").

h. The Original Lease, as amended, was assigned by Meteigner, Jean, and Bistro to Thadeus Smith ("Smith") and John Lahr ("Lahr") pursuant to a written Assignment of Lease dated February 24, 1999, and to which Marlene G. Becker as Lessor consented.

i. Marlene G. Becker conveyed the Original Premises to the Trust on May 14, 2002, and the Trust is now the Lessor of the property.

j. The Original Lease, as amended, was assigned by Smith and Lahr to Morris pursuant to a written Assignment of Lease dated December, 2003, and to which the Lessor consented.

k. Lessor, Smith and Lahr entered into a Fourth Amendment of Lease dated January 1, 2004.

l. Lessor and Assignor have entered into a Fifth Amendment of Lease dated May 21, 2012, to be effective concurrently with the effectiveness of this Assignment.

m. The Original Lease, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, and the Fifth Amendment is referred to herein as the "Lease".

n. Assignor desires to assign all of its right, title and interest in and to the Lease and the Premises to Assignee, and Assignee desires to assume all liabilities under the Lease.

o. Lessor consents to the proposed assignment on the conditions set forth in this Assignment.

2. Effective Date of Assignment. This Assignment shall take effect upon the closing of the sale of the business located at the Premises to Assignee, which escrow is currently pending at Wilshire Escrow Company, 4720 Wilshire Boulevard, Los Angeles, California 90010, escrow number 125449 ("Sale Escrow"). Assignee will notify Lessor of the closing on the date of closing.

3. Assignment and Assumption. Assignor assigns and transfers to Assignee all of its right, title and interest in and to the Lease and Assignee accepts the assignment and assumes and agrees to perform, from the date the assignment becomes effective, as a direct obligation to Lessor, all provisions of the Lease.

4. **Lessor's Consent.** Lessor consents to the assignment without waiver of the restriction concerning further assignment.

5. **Default of Lease.**

a. Notice to Assignor. Lessor will send to Assignor any notice of default that Lessor sends to Assignee.

b. Right to Cure. If Assignee is in default of the Lease, before Lessor will exercise any of the rights available to Lessor by reason of any default, Assignor shall have the right for a period of five (5) days after the period expires for curing rent defaults, and ten (10) days after the period expires for curing non-rent defaults, in which to cure any default of Assignee. If any default, other than non-payment of rent, cannot reasonably be cured within the additional 10-day period, the commencement of the cure of the default within such 10-day period shall be deemed a cure of the default, provided the cure is diligently prosecuted to completion.

c. Assignor's Remedies Against Assignee. If Assignee defaults under the Lease, Assignor shall have all rights against Assignee that are available by law. If Lessor sues Assignor as a result of Assignee's failure to fulfill its obligations under the Lease, then Assignee shall indemnify or defend Assignor from and against any actual and documented loss, cost, damage, liability or expense, including reasonable attorney's fees and court costs, incurred by Assignor as a result of such lawsuit.

6. **Assignor's Liability.** Assignor shall remain liable for the performance of the provisions of the Lease, even though Assignee has direct liability to Lessor for performance of all the provisions of the Lease. Assignor, however, will not be liable for any obligations incurred under the Lease subsequent to the commencement of the fourth extended term of the Lease if the option for the fourth extended term is exercised. Assignee further agrees to obtain a Certificate of Insurance naming Assignor as an additional insured on the liability insurance required under Paragraph 8.2(a) of the Lease for the period of Assignee's liability as defined herein.

7. **Security Deposit.** The parties hereto acknowledge that Lessor now holds the sum \$5,850 as a security deposit, to be applied in accordance with the provisions of the Lease. Assignor releases all claims to \$4,946.25 of that sum which is to be paid to the Lessor for amounts owed by Assignor to Lessor for two lease assignment fees and expenses incurred by Lessor in considering a proposed lease amendment.

8. **Conditions to Effectiveness of this Assignment.** This Assignment shall not be effective until all of the following conditions for the benefit of

Lessor have been satisfied. Assignor and Assignee will provide instructions to the Sale Escrow in which this Assignment will be deposited that this Assignment is not to be delivered to Assignor and Assignee until Lessor has advised the Sale Escrow that these conditions have been met

a. All real property taxes due at a proration to Lessor with regard to the Premises shall be paid to Lessor out of the sale escrow referenced in Paragraph 2 hereof (the "Sale Escrow").

b. All rent payable under the Lease to be current at the time of the close of the Sale Escrow and all late payment penalties due under the Lease will have been paid.

c. On or before the closing of the Sale Escrow, Lessor is presented with evidence that all insurance coverages required by the Lease are in effect.

d. Lessor has confirmed to Escrow before closing that the Lease has been personally guaranteed by Travis Lester, Justin Safier, Broseph's Restaurant Group LLC, a California limited liability company, and William H. Miller II.

g. Assignee has paid to Lessor the amount of \$8,633 as a security deposit to be held by Lessor under the security deposit provisions of the Lease.

9. Personal Property of Lessor. Attached hereto as Exhibit A is a list of certain personal property currently located in the Premises which all parties hereto acknowledge is owned by Lessor.

10. Miscellaneous.

a. **Attorney's Fees.** If any party hereto commences an action against any of the other parties arising out of or in connection with this Assignment, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees, expert witness, accountant and paralegal fees, and costs of suit, including attorneys fees incurred in post judgment proceedings.

b. **Successors and Assigns.** Subject to the provision of the Lease, this Assignment shall be binding on, and inure to the benefit of, the parties and their successors and assigns.

c. **Notice.** All notices, requests, demands, and other communications under this Assignment shall be in writing and shall be deemed to have been duly given on the date of service if served personally and on the party to whom notice is to be given, on the date of receipt (or refusal to accept receipt) if delivered by overnight delivery service to the party to whom notice is to be given, or on the third business day after mailing if mailed to the party to

whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

To Lessor:

Marlene G. Becker
2016 Holmby Avenue
Los Angeles, CA 90025

With a copy to:

Al Marsella, C.P.A.
1680 N. Vine Street, #504
Hollywood, CA 90028
Fax (323) 464-9899

To Assignor:

Greg Morris
5830 Foothill Dr.
Los Angeles, CA 90068-3613

To Assignee:

Travis Lester
13816 Bora Bora Way, #a202
Marina del Rey, CA 90254

With a copy to:

Gay L. Harwin, Esquire
Law Offices of Gay L. Harwin
9454 Wilshire Boulevard, Suite 707
Beverly Hills, California 90212

d. Further Acts. Lessor, Assignor and Assignee hereby covenant that each will, at any time and from time to time upon request by the other, and without the assumption of any additional liability thereby, execute and deliver such further documents and do such further acts as such party may reasonably request in order to fully effect the purpose of this Assignment.

e. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

f. Entire Agreement. This Assignment is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties hereto with respect thereto. This Assignment may

not be altered, amended, changed, terminated or modified in any respect or particular, unless the same shall be in writing and signed by the party to be charged and unless such amendment has been approved in writing by Lessor.

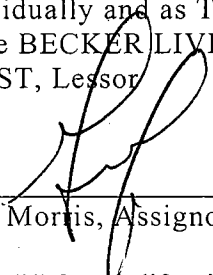
IN WITNESS WHEREOF, this Assignment has been duly executed by the parties as of the date first above written.



Marlene G. Becker,
Individually and as Trustee
of the BECKER LIVING
TRUST, Lessor



Bernard B. Becker,
Individually and as Trustee
of the BECKER LIVING
TRUST, Lessor



Greg Morris, Assignor

TJBC, LLC, a California limited liability company,
Assignee

By: Broseph's Restaurant Group LLC
a California limited liability
company, managing member for
TJBC, LLC

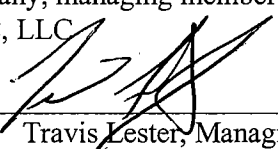

By: _____
Travis Lester, Managing
Member

EXHIBIT A

Lease and Amendments

EXHIBIT B

Personal Property of Lessor:

1. Kitchen wood block table
2. Dishwasher
3. Stainless steel sink unit
4. Walk-in cooler
5. Beverage cooler in the bar
6. Two six-burner stoves with oven
7. Fryer
8. Gas charbroiler
9. Two drawer refrigerator unit
10. Center steam table with two door refrigerator
11. Stainless steel work table
12. Three metal wire racks (in walk-in cooler)
13. One metal rack holder
14. Two door freezer
15. One metal floor rack
16. Two propane gas space heaters
17. One cash register by bar

**STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE-NET**

(Do not use this form for Multi-Tenant Property)

1. Basic Provisions ("Basic Provisions")

1.1 Parties: This Lease ("Lease"), dated for reference purposes only, April 1, 1992, is made by and between Marlene G. Becker

and Nazrul I. Ali and Faisal Ali ("Lessor")

(collectively the "Parties" or individually a "Party").

1.2 Premises: That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, and commonly known by the street address of 829 North La Cienega Boulevard located in the County of Los Angeles State of California and generally described as (describe briefly the nature of the property) a single story restaurant facility (See Exhibit "A" attached for legal description)

1.3 Term: Seven (7) years and May months ("Original Term") commencing April 1, 1992 ("Commencement Date") and ending March 31, 1999 ("Expiration Date"). (See Paragraph 3 for further provisions.)

1.4 Early Possession: Not applicable ("Early Possession Date"). (See Paragraphs 3.2 and 3.3 for further provisions.)

1.5 Base Rent: \$ 3,900.00 per month ("Base Rent"), payable on the first day of each month commencing April 1, 1992; no rent to be charged for April and May, 1992, and a total of \$1,950.00 per month for the months of June through October, 1992. (See paragraph 50 for further monthly rent adjustment.)

☐ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted.

1.6 Base Rent Paid Upon Execution: \$ 3,900.00 as Base Rent for the period June and July, 1992.

1.7 Security Deposit: \$ 5,850.00 ("Security Deposit"). (See Paragraph 5 for further provisions.)

1.8 Permitted Use: The premises are to be used as a bar and restaurant (See Paragraph 6 for further provisions.)

1.9 Insuring Party: Lessor is the "Insuring Party" unless otherwise stated herein. (See Paragraph 8 for further provisions.)

1.10 Real Estate Brokers: The following real estate brokers (collectively, the "Brokers") and brokerage relationships exist in this transaction and are consented to by the Parties (check applicable boxes):

Coldwell Banker represents

☒ Lessor exclusively ("Lessor's Broker"); ☐ both Lessor and Lessee, and South Park Group represents

☒ Lessee exclusively ("Lessee's Broker"); ☐ both Lessee and Lessor. (See Paragraph 15 for further provisions.)

1.11 Guarantor: The obligations of the Lessee under this Lease are to be guaranteed by _____ ("Guarantor"). (See Paragraph 37 for further provisions.)

1.12 Addenda: Attached hereto is an Addendum or Addenda consisting of Paragraphs 49 through 53 and Exhibits _____ all of which constitute a part of this Lease.

2. Premises.

2.1 Letting. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of square footage set forth in this Lease, or that may have been used in calculating rental, is an approximation which Lessor and Lessee agree is reasonable and the rental based thereon is not subject to revision whether or not the actual square footage is more or less.

[REDACTED]

2.4 Acceptance of Premises. Lessee hereby acknowledges: (a) that it has been advised by the Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical and fire sprinkler systems, security, environmental aspects, compliance with Applicable Law, as defined in Paragraph 6.3) and the present and future suitability of the Premises for Lessee's intended use, (b) that Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to Lessee's occupancy of the Premises and/or the term of this Lease, and (c) that neither Lessor, nor any of Lessor's agents, has made any oral or written representations or warranties with respect to the said matters other than as set forth in this Lease.

2.5 Lessee Prior Owner/Occupant. The warranties made by Lessor in this Paragraph 2 shall be of no force or effect if immediately prior to the date set forth in Paragraph 1.1 Lessee was the owner or occupant of the Premises. In such event, Lessee shall, at Lessee's sole cost and expense, correct any non-compliance of the Premises with said warranties.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease, however, (including but not limited to the obligations to pay Real Property Taxes and Insurance premiums and to maintain the Premises) shall be in effect during such period. Any such early possession shall not affect nor advance the Expiration Date of the Original Term.

Initials: MA
FA

3.3 **Delay In Possession.** If for any reason Lessor cannot deliver possession of the Premises to Lessee by the Early Possession Date, as agreed herein by the Early Possession Date, if one is specified in Paragraph 1.4, or, if no Early Possession Date is specified, by the Commencement Date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease, or the obligations of Lessee hereunder, or extend the term hereof, but in such case, Lessee shall not, except as otherwise provided herein, be obligated to pay rent or perform any other obligation of Lessee under the terms of this Lease until Lessor delivers possession of the Premises to Lessee. If possession of the Premises is not delivered to Lessee within sixty (60) days after the Commencement Date, Lessee may, at its option, by notice in writing to Lessor within ten (10) days thereafter, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder; provided, however, that if such written notice by Lessee is not received by Lessor within said ten (10) day period, Lessee's right to cancel this Lease shall terminate and be of no further force or effect. Except as may be otherwise provided, and regardless of when the term actually commences, if possession is not tendered to Lessee when required by this Lease and Lessee does not terminate this Lease, as aforesaid, the period free of the obligation to pay Base Rent, if any, that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts, changes or omissions of Lessee.

4. Rent.

4.1 **Base Rent.** Lessee shall cause payment of Base Rent and other rent or charges, as the same may be adjusted from time to time, to be received by Lessor in lawful money of the United States, without offset or deduction, on or before the day on which it is due under the terms of this Lease. Base Rent and all other rent and charges for any period during the term hereof which is for less than one (1) full calendar month shall be prorated based upon the actual number of days of the calendar month involved. Payment of Base Rent and other charges shall be made to Lessor at its address stated herein or to such other persons or at such other addresses as Lessor may from time to time designate in writing to Lessee.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit set forth in Paragraph 1.7 as security for Lessee's faithful performance of Lessee's obligations under this Lease. If Lessee fails to pay Base Rent or other rent or charges due hereunder, or otherwise defaults under this Lease (as defined in Paragraph 13.1), Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, cost, expense, loss or damage (including attorneys' fees) which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of said Security Deposit, Lessee shall within ten (10) days after written request therefor deposit moneys with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. Any time the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional moneys with Lessor sufficient to maintain the same ratio between the Security Deposit and the Base Rent as those amounts are specified in the Basic Provisions. Lessor shall not be required to keep all or any part of the Security Deposit separate from its general accounts. Lessor shall, at the expiration or earlier termination of the term hereof and after Lessee has vacated the Premises, return to Lessee (or, at Lessor's option, to the last assignee, if any, of Lessee's interest herein), that portion of the Security Deposit not used or applied by Lessor. Unless otherwise expressly agreed in writing by Lessor, no part of the Security Deposit shall be considered to be held in trust, to bear interest or other increment for its use, or to be prepayment for any moneys to be paid by Lessee under this Lease.

6. Use.

6.1 **Use.** Lessee shall use and occupy the Premises only for the purposes set forth in Paragraph 1.8, or any other use which is comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that creates waste or a nuisance, or that disturbs owners and/or occupants of, or causes damage to, neighboring premises or properties.

6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substance shall include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in, on or about the Premises which constitutes a Reportable Use (as hereinafter defined) of Hazardous Substances without the express prior written consent of Lessor and compliance in a timely manner (at Lessee's sole cost and expense) with all Applicable Law (as defined in Paragraph 6.3). "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority. Reportable Use shall also include Lessee's being responsible for the presence in, on or about the Premises of a Hazardous Substance with respect to which any Applicable Law requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may, without Lessor's prior consent, but in compliance with all Applicable Law, use any ordinary and customary materials reasonably required to be used by Lessee in the normal course of Lessee's business permitted on the Premises, so long as such use is not a Reportable Use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may (but without any obligation to do so) condition its consent to the use or presence of any Hazardous Substance, activity or storage tank by Lessee upon Lessee's giving Lessor such additional assurances as Lessor, in its reasonable discretion, deems necessary to protect itself, the public, the Premises and the environment against damage, contamination or injury and/or liability therefrom or therefor, including, but not limited to, the installation (and removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasements) and/or the deposit of an additional Security Deposit under Paragraph 5 hereof.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance, or a condition involving or resulting from same, has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor. Lessee shall also immediately give Lessor a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action or proceeding given to, or received from, any governmental authority or private party, or persons entering or occupying the Premises, concerning the presence, spill, release, discharge of, or exposure to, any Hazardous Substance or contamination in, on, or about the Premises, including but not limited to all such documents as may be involved in any Reportable Uses involving the Premises.

(c) **Indemnification.** Lessee shall indemnify, protect, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, and the Premises, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, costs, claims, liens, expenses, penalties, permits and attorney's and consultant's fees arising out of or involving any Hazardous Substance or storage tank brought onto the Premises by or for Lessee or under Lessee's control. Lessee's obligations under this Paragraph 6 shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation (including consultant's and attorney's fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved, and shall survive the expiration or earlier termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances or storage tanks, unless specifically so agreed by Lessor in writing at the time of such agreement.

6.3 **Lessee's Compliance with Law.** Except as otherwise provided in this Lease, Lessee, shall, at Lessee's sole cost and expense, fully, diligently and in a timely manner, comply with all "Applicable Law," which term is used in this Lease to include all laws, rules, regulations, ordinances, directives, covenants, easements and restrictions of record, permits, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants, relating in any manner to the Premises (including but not limited to matters pertaining to (i) Industrial hygiene, (ii) environmental conditions on, in, under or about the Premises, including soil and groundwater conditions, and (iii) the use, generation, manufacture, production, installation, maintenance, removal, transportation, storage, spill or release of any Hazardous Substance or storage tank), now in effect or which may hereafter come into effect, and whether or not reflecting a change in policy from any previously existing policy. Lessee shall, within five (5) days after receipt of Lessor's written request, provide Lessor with copies of all documents and information, including, but not limited to, permits, registrations, manifests, applications, reports and certificates, evidencing Lessee's compliance with any Applicable Law specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving failure by Lessee or the Premises to comply with any Applicable Law.

6.4 **Inspection; Compliance.** Lessor and Lessor's Lender(s) (as defined in Paragraph 8.3(a)) shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease and all Applicable Laws (as defined in Paragraph 6.3), and to employ experts and/or consultants in connection therewith and/or to advise Lessor with respect to Lessee's activities, including but not limited to the installation, operation, use, monitoring, maintenance, or removal of any Hazardous Substance or storage tank on or from the Premises. The costs and expenses of any such inspections shall be paid by the party requesting same, unless a Default or Breach of this Lease, violation of Applicable Law, or a contamination, caused or materially contributed to by Lessee is found to exist or be imminent, or unless the inspection is requested or ordered by a governmental authority as the result of any such existing or imminent violation or contamination. In any such case, Lessee shall upon request reimburse Lessor or Lessor's Lender, as the case may be, for the costs and expenses of such inspections.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

(a) Subject to the provisions of Paragraphs 2.2 (Lessor's warranty as to condition), 2.3 (Lessor's warranty as to compliance with covenants, etc.), 7.2 (Lessor's obligations to repair), 9 (damage and destruction), and 14 (condemnation), Lessee shall, at Lessee's sole cost and expense and at all times, keep the Premises and every part thereof in good order, condition and repair, structural and non-structural (whether or not such portion of the Premises requiring repair, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs

as a result of Lessee's use, any prior use, improvements or the age of such portion of the Premises), including, without limiting the generality of the foregoing, all equipment or facilities serving the Premises, such as plumbing, heating, air conditioning, ventilating, electrical, lighting facilities, boilers, fired or unfired pressure vessels, fire sprinkler and/or standpipe and hose or other automatic fire extinguishing system, including fire alarm and/or smoke detection systems and equipment, fire hydrants, fixtures, walls (interior and exterior), foundations, ceilings, roofs, floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, about, or adjacent to the Premises. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of, the Premises, the elements surrounding same, or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance and/or storage tank brought onto the Premises by or for Lessee or under its control. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. If Lessee occupies the Premises for seven (7) years or more, Lessor may require Lessee to repaint the exterior of the buildings on the Premises as reasonably required, but not more frequently than once every seven (7) years.

(b) Lessee shall, at Lessee's sole cost and expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in, the inspection, maintenance and service of the following equipment and improvements, if any, located on the Premises: (i) heating, air conditioning and ventilation equipment, (ii) boiler, fired or unfired pressure vessels, (iii) fire sprinkler and/or standpipe and hose or other automatic fire extinguishing systems, including fire alarm and/or smoke detection, (iv) landscaping and irrigation systems, (v) roof covering and drain maintenance and (vi) asphalt and parking lot maintenance.

7.2 Lessor's Obligations. Except for the warranties and agreements of Lessor contained in Paragraphs 2.2 (relating to condition of the Premises), 2.3 (relating to compliance with covenants, restrictions and building code), 9 (relating to destruction of the Premises) and 14 (relating to condemnation of the Premises), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, the improvements located thereon, or the equipment therein, whether structural or non structural, all of which obligations are intended to be that of the Lessee under Paragraph 7.1 hereof. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises. Lessee and Lessor expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease with respect to, or which affords Lessee the right to make repairs at the expense of Lessor or to terminate this Lease by reason of, any needed repairs.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions; Consent Required.** The term "Utility Installations" is used in this Lease to refer to all carpeting, window coverings, air lines, power panels, electrical distribution, security, fire protection systems, communication systems, lighting fixtures, heating, ventilating, and air conditioning equipment, plumbing, and fencing in, on or about the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements on the Premises from that which are provided by Lessor under the terms of this Lease, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor as defined in Paragraph 7.4(a). Lessee shall not make any Alterations or Utility Installations in, on, under or about the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof), as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during the term of this Lease as extended does not exceed \$25,000.

(b) **Consent.** Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with proposed detailed plans. All consents given by Lessor, whether by virtue of Paragraph 7.3(a) or by subsequent specific consent, shall be deemed conditioned upon: (i) Lessee's acquiring all applicable permits required by governmental authorities, (ii) the furnishing of copies of such permits together with a copy of the plans and specifications for the Alteration or Utility Installation to Lessor prior to commencement of the work thereon; and (iii) the compliance by Lessee with all conditions of said permits in a prompt and expeditious manner. Any Alterations or Utility Installations by Lessee during the term of this Lease shall be done in a good and workmanlike manner, with good and sufficient materials, and in compliance with all Applicable Law. Lessee shall promptly upon completion thereof furnish Lessor with as-built plans and specifications therefor. Lessor may (but without obligation to do so) condition its consent to any requested Alteration or Utility Installation that costs \$10,000 or more upon Lessee's providing Lessor with a lien and completion bond in an amount equal to one and one-half times the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor under Paragraph 36 hereof.

(c) **Indemnification.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanics' or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than ten (10) days' notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Lessee shall, in good faith, contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Lessor or the Premises. If Lessor shall require, Lessee shall furnish to Lessor a surety bond satisfactory to Lessor in an amount equal to one and one-half times the amount of such contested lien claim or demand, indemnifying Lessor against liability for the same, as required by law for the holding of the Premises free from the effect of such lien or claim. In addition, Lessor may require Lessee to pay Lessor's attorney's fees and costs in participating in such action if Lessor shall decide it is to its best interest to do so.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require their removal or become the owner thereof as hereinafter provided in this Paragraph 7.4, all Alterations and Utility Additions made to the Premises by Lessee shall be the property of and owned by Lessee, but considered a part of the Premises. Lessor may, at any time and at its option, elect in writing to Lessee to be the owner of all or any specified part of the Lessee Owned Alterations, and Utility Installations. Unless otherwise instructed per subparagraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or earlier termination of this Lease, become the property of Lessor and remain upon and be surrendered by Lessee with the Premises.

(b) **Removal.** Unless otherwise agreed in writing, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or earlier termination of this Lease, notwithstanding their installation may have been consented to by Lessor. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent of Lessor.

(c) **Surrender/Restoration.** Lessee shall surrender the Premises by the end of the last day of the Lease term or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice or by Lessee performing all of its obligations under this Lease. Except as otherwise agreed or specified in writing by Lessor, the Premises, as surrendered, shall include the Utility Installations. The obligation of Lessee shall include the repair of any damage occasioned by the installation, maintenance or removal of Lessee's Trade Fixtures, furnishings, equipment, and Alterations and/or Utility Installations, as well as the removal of any storage tank installed by or for Lessee, and the removal, replacement, or remediation of any soil, material or ground water contaminated by Lessee, all as may then be required by Applicable Law and/or good practice. Lessee's Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee subject to its obligation to repair and restore the Premises per this Lease.

8. Insurance; Indemnity.

8.1 Payment For Insurance. Regardless of whether the Lessor or Lessee is the Insuring Party, Lessee shall pay for any insurance required under this Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor in excess of \$1,000,000 per occurrence. Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor within ten (10) days following receipt of an invoice for any amount due.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force during the term of this Lease a Commercial General Liability policy of insurance protecting Lessee and Lessor (as an additional insured) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an "Additional Insured-Managers or Lessors of Premises" Endorsement and contain the "Amendment of the Pollution Exclusion" for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance required by this Lease or as carried by Lessee shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance to be carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried By Lessor.** In the event Lessor is the Insuring Party, Lessor shall also maintain liability insurance described in Paragraph 8.2(a), above, in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance—Building, Improvements and Rental Value.

(a) **Building and Improvements.** The Insuring Party shall obtain and keep in force during the term of this Lease a policy or policies in the name of Lessor, with loss payable to Lessor and to the holders of any mortgages, deeds of trust or ground leases on the Premises ("Lender(s)"), insuring loss

or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by Lenders, but in no event more than the commercially reasonable and available insurable value thereof if, by reason of the unique nature or age of the improvements involved, such latter amount is less than full replacement cost. If Lessor is the Insuring Party, however, Lessee Owned Alterations and Utility Installations shall be insured by Lessee under Paragraph 8.4 rather than by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of the Premises required to be demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered cause of loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss, as defined in Paragraph 9.1(c).

(b) **Rental Value.** The Insuring Party shall, in addition, obtain and keep in force during the term of this Lease a policy or policies in the name of Lessor, with loss payable to Lessor and Lender(s), insuring the loss of the full rental and other charges payable by Lessee to Lessor under this Lease for one (1) year (including all real estate taxes, insurance costs, and any scheduled rental increases). Said insurance shall provide that in the event the Lease is terminated by reason of an insured loss, the period of indemnity for such coverage shall be extended beyond the date of the completion of repairs or replacement of the Premises, to provide for one full year's loss of rental revenues from the date of any such loss. Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected rental income, property taxes, insurance premium costs and other expenses, if any, otherwise payable by Lessee, for the next twelve (12) month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises.** If the Premises are part of a larger building, or if the Premises are part of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Tenant's Improvements.** If the Lessor is the Insuring Party, the Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease. If Lessee is the Insuring Party, the policy carried by Lessee under this Paragraph 8.3 shall insure Lessee Owned Alterations and Utility Installations.

8.4 **Lessee's Property Insurance.** Subject to the requirements of Paragraph 8.5, Lessee at its cost shall either by separate policy or, at Lessor's option, by endorsement to a policy already carried, maintain insurance coverage on all of Lessee's personal property, Lessee Owned Alterations and Utility Installations in, on, or about the Premises similar in coverage to that carried by the Insuring Party under Paragraph 8.3. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property or the restoration of Lessee Owned Alterations and Utility Installations. Lessee shall be the Insuring Party with respect to the insurance required by this Paragraph 8.4 and shall provide Lessor with written evidence that such insurance is in force.

8.5 **Insurance Policies.** Insurance required hereunder shall be in companies duly licensed to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, or such other rating as may be required by a Lender having a lien on the Premises, as set forth in the most current issue of "Best's Insurance Guide." Lessee shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Paragraph 8. If Lessee is the Insuring Party, Lessee shall cause to be delivered to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of such insurance with the insureds and loss payable clauses as required by this Lease. No such policy shall be cancellable or subject to modification except after thirty (30) days prior written notice to Lessor. Lessee shall at least thirty (30) days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. If the Insuring Party shall fail to procure and maintain the insurance required to be carried by the Insuring Party under this Paragraph 8, the other Party, may, but shall not be required to, procure and maintain the same; but at Lessee's expense.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor ("Waiving Party") each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for loss of or damage to the Waiving Party's property arising out of or incident to the perils required to be insured against under Paragraph 8. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto.

8.7 **Indemnity.** Except for Lessor's negligence and/or breach of express warranties, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, costs, liens, judgments, penalties, permits, attorney's and consultant's fees, expenses and/or liabilities arising out of, involving, or in dealing with, the occupancy of the Premises by Lessee, the conduct of Lessee's business, any act, omission or neglect of Lessee, its agents, contractors, employees or invitees, and out of any Default or Breach by Lessee in the performance in a timely manner of any obligation on Lessee's part to be performed under this Lease. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not (in the case of claims made against Lessor) litigated and/or reduced to judgment, and whether well founded or not. In case any action or proceeding be brought against Lessor by reason of any of the foregoing matters, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be so indemnified.

8.8 **Exemption of Lessor from Liability.** Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is accessible or not. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, the repair cost of which damage or destruction is less than 50% of the then Replacement Cost of the Premises immediately prior to such damage or destruction, excluding from such calculation the value of the land and Lessee Owned Alterations and Utility Installations.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations the repair cost of which damage or destruction is 50% or more of the then Replacement Cost of the Premises immediately prior to such damage or destruction, excluding from such calculation the value of the land and Lessee Owned Alterations and Utility Installations.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of applicable building codes, ordinances or laws, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 8.2(a), in, on, or under the Premises.

9.2 **Partial Damage—Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make the insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, the shortage in proceeds was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within ten (10) days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said ten (10) day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If Lessor does not receive such funds or assurance within said period, Lessor may nevertheless elect by written notice to Lessee within ten (10) days thereafter to make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect. If in such case Lessor does not so elect, then this Lease shall terminate sixty (60) days following the occurrence of the damage or destruction. Unless otherwise agreed, Lessee shall in no event have any right to reimbursement from Lessor for any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3 rather than Paragraph 9.2, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by other Party.

9.3 Partial Damage—Uninsured Loss. Premises Partial Damage that is not an Insured Loss, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 13), Lessor may at Lessor's option, either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Lessee within thirty (30) days after receipt by Lessor of knowledge of the occurrence of such damage of Lessor's desire to terminate this Lease as of the date sixty (60) days following the giving of such notice. In the event Lessor elects to give such notice of Lessor's intention to terminate this Lease, Lessee shall have the right within ten (10) days after the receipt of such notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage totally at Lessee's expense and without reimbursement from Lessor. Lessee shall provide Lessor with the required funds or satisfactory assurance thereof within thirty (30) days following Lessee's said commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible and the required funds are available. If Lessee does not give such notice and provide the funds or assurance thereof within the times specified above, this Lease shall terminate as of the date specified in Lessor's notice of termination.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs (including any destruction required by any authorized public authority), this Lease shall terminate sixty (60) days following the date of such Premises Total Destruction, whether or not the damage or destruction is an Insured Loss or was caused by a negligent or willful act of Lessee. In the event, however, that the damage or destruction was caused by Lessee, Lessor shall have the right to recover Lessor's damages from Lessee except as released and waived in Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last six (6) months of the term of this Lease there is damage for which the cost to repair exceeds one (1) month's Base Rent, whether or not an Insured Loss, Lessor may, at Lessor's option, terminate this Lease effective sixty (60) days following the date of occurrence of such damage by giving written notice to Lessee of Lessor's election to do so within thirty (30) days after the date of occurrence of such damage. Provided, however, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, within twenty (20) days following the occurrence of the damage, or before the expiration of the time provided in such option for its exercise, whichever is earlier ("Exercise Period"), (i) exercising such option and (ii) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs. If Lessee duly exercises such option during said Exercise Period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during said Exercise Period, then Lessor may at Lessor's option terminate this Lease as of the expiration of said sixty (60) day period following the occurrence of such damage by giving written notice to Lessee of Lessor's election to do so within ten (10) days after the expiration of the Exercise Period, notwithstanding any term or provision in the grant of option to the contrary.

9.6 Abatement of Rent; Lessee's Remedies.

(a) In the event of damage described in Paragraph 9.2 (Partial Damage—Insured), whether or not Lessor or Lessee repairs or restores the Premises, the Base Rent, Real Property Taxes, insurance premiums, and other charges, if any, payable by Lessee hereunder for the period during which such damage, its repair or the restoration continues (not to exceed the period for which rental value insurance is required under Paragraph 8.3(b)), shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired. Except for abatement of Base Rent, Real Property Taxes, insurance premiums, and other charges, if any, as aforesaid, all other obligations of Lessee hereunder shall be performed by Lessee, and Lessee shall have no claim against Lessor for any damage suffered by reason of any such repair or restoration.

(b) If Lessor shall be obligated to repair or restore the Premises under the provisions of this Paragraph 9 and shall not commence, in a substantial and meaningful way, the repair or restoration of the Premises within ninety (90) days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice of Lessee's election to terminate this Lease on a date not less than sixty (60) days following the giving of such notice. If Lessee gives such notice to Lessor and such Lenders and such repair or restoration is not commenced within thirty (30) days after receipt of such notice, this Lease shall terminate as of the date specified in said notice. If Lessor or a Lender commences the repair or restoration of the Premises within thirty (30) days after receipt of such notice, this Lease shall continue in full force and effect. "Commence" as used in this Paragraph shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 Hazardous Substance Conditions. If a Hazardous Substance Condition occurs, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by Applicable Law and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 13), Lessor may at Lessor's option either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to investigate and remediate such condition exceeds twelve (12) times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee within thirty (30) days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition of Lessor's desire to terminate this Lease as of the date sixty (60) days following the giving of such notice. In the event Lessor elects to give such notice of Lessor's intention to terminate this Lease, Lessee shall have the right within ten (10) days after the receipt of such notice to give written notice to Lessor of Lessee's commitment to pay for the investigation and remediation of such Hazardous Substance Condition totally at Lessee's expense and without reimbursement from Lessor except to the extent of an amount equal to twelve (12) times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with the funds required of Lessee or satisfactory assurance thereof within thirty (30) days following Lessee's said commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such investigation and remediation as soon as reasonably possible and the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the times specified above, this Lease shall terminate as of the date specified in Lessor's notice of termination. If a Hazardous Substance Condition occurs for which Lessee is not legally responsible, there shall be abatement of Lessee's obligations under this Lease to the same extent as provided in Paragraph 9.6(a) for a period of not to exceed twelve months.

9.8 Termination—Advance Payments. Upon termination of this Lease pursuant to this Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor under the terms of this Lease.

9.9 Waive Statutes. Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. Real Property Taxes.

10.1 (a) Payment of Taxes. Lessee shall pay the Real Property Taxes, as defined in Paragraph 10.2, applicable to the Premises during the term of this Lease. Subject to Paragraph 10.1(b), all such payments shall be made at least ten (10) days prior to the delinquency date of the applicable installment. Lessee shall promptly furnish Lessor with satisfactory evidence that such taxes have been paid. If any such taxes to be paid by Lessee shall cover any period of time prior to or after the expiration or earlier termination of the term hereof, Lessee's share of such taxes shall be equitably prorated to cover only the period of time within the tax fiscal year this Lease is in effect, and Lessor shall reimburse Lessee for any overpayment after such proration. If Lessee shall fail to pay any Real Property Taxes required by this Lease to be paid by Lessee, Lessor shall have the right to pay the same, and Lessee shall reimburse Lessor therefor upon demand.

(b) **Advance Payment.** In order to insure payment when due and before delinquency of any or all Real Property Taxes, Lessor reserves the right, at Lessor's option, to estimate the current Real Property Taxes applicable to the Premises, and to require such current year's Real Property Taxes to be paid in advance to Lessor by Lessee, either: (i) in a lump sum amount equal to the installment due, at least twenty (20) days prior to the applicable delinquency date, or (ii) monthly in advance with the payment of the Base Rent. If Lessor elects to require payment monthly in advance, the monthly payment shall be that equal monthly amount which, over the number of months remaining before the month in which the applicable tax installment would become delinquent (and without interest thereon), would provide a fund large enough to fully discharge before delinquency the estimated installment of taxes to be paid. When the actual amount of the applicable tax bill is known, the amount of such equal monthly advance payment shall be adjusted as required to provide the fund needed to pay the applicable taxes before delinquency. If the amounts paid to Lessor by Lessee under the provisions of this Paragraph are insufficient to discharge the obligations of Lessee to pay such Real Property Taxes as the same become due, Lessee shall pay to Lessor, upon Lessor's demand, such additional sums as are necessary to pay such obligations. All moneys paid to Lessor under this Paragraph may be intermingled with other moneys of Lessor, and shall not bear interest. In the event of a Breach by Lessee in the performance of the obligations of Lessee under this Lease, then any balance of funds paid to Lessor under the provisions of this Paragraph may, subject to proration as provided in Paragraph 10.1(a), at the option of Lessor, be treated as an additional Security Deposit under Paragraph 5.

10.2 Definition of "Real Property Taxes." As used herein, the term "Real Property Taxes" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed upon the Premises by any authority having the direct or indirect power to tax, including any city, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, levied against any legal or equitable interest of Lessor in the Premises or in the real property of which the Premises are a part, Lessor's right to rent or other income therefrom, and/or Lessor's business of leasing the Premises. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein, imposed by reason of events occurring, or changes in applicable law taking effect, during the term of this Lease, including but not limited to a change in the ownership of the Premises or in the improvements thereon, the execution of this Lease, or any modification, amendment or transfer thereof, and whether or not contemplated by the Parties.

10.3 Joint Assessment. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.4 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against, and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises or elsewhere. When possible, Lessee shall cause its Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said personal property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee within ten (10) days after receipt of a written statement setting forth the taxes applicable to Lessee's property or, at Lessor's option, as provided in Paragraph 10.1(b).

11. **Utilities.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered with other premises.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or otherwise transfer or encumber (collectively, "assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent given under and subject to the terms of Paragraph 36.

(b) A change in the control of Lessee shall constitute an assignment requiring Lessor's consent. The transfer, on a cumulative basis, of twenty-five percent (25%) or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, refinancing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee, as hereinafter defined, by an amount equal to or greater than twenty-five percent (25%) of such Net Worth of Lessee as it was represented to Lessor at the time of the execution by Lessor of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, at whichever time said Net Worth of Lessee was or is greater, shall be considered an assignment of this Lease by Lessee to which Lessor may reasonably withhold its consent. "Net Worth of Lessee" for purposes of this Lease shall be the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles consistently applied.

(d) An assignment or subletting of Lessee's interest in this Lease without Lessor's specific prior written consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unconsented to assignment or subletting as a noncurable Breach, Lessor shall have the right to either: (i) terminate this Lease, or (ii) upon thirty (30) days written notice ("Lessor's Notice"), increase the monthly Base Rent to fair market rental value or one hundred ten percent (110%) of the Base Rent then in effect, whichever is greater. Pending determination of the new fair market rental value, if disputed by Lessee, Lessee shall pay the amount set forth in Lessor's Notice, with any overpayment credited against the next installment(s) of Base Rent coming due, and any underpayment for the period retroactively to the effective date of the adjustment being due and payable immediately upon the determination thereof. Further, in the event of such Breach and market value adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to the then fair market value (without the Lease being considered an encumbrance or any deduction for depreciation or obsolescence, and considering the Premises at its highest and best use and in good condition), or one hundred ten percent (110%) of the price previously in effect, whichever is greater, (ii) any index-oriented rental or price adjustment formulas contained in this Lease shall be adjusted to require that the base index be determined with reference to the index applicable to the time of such adjustment, and (iii) any fixed rental adjustments scheduled during the remainder of the Lease term shall be increased in the same ratio as the new market rental bears to the Base Rent in effect immediately prior to the market value adjustment.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, any assignment or subletting shall not: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Base Rent and other sums due Lessor hereunder or for the performance of any other obligations to be performed by Lessee under this Lease.

(b) Lessor may accept any rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of any rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for the Default or Breach by Lessee of any of the terms, covenants or conditions of this Lease.

(c) The consent of Lessor to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting by Lessee or to any subsequent or successive assignment or subletting by the sublessee. However, Lessor may consent to subsequent sublettings and assignments of the sublease or any amendments or modifications thereto without notifying Lessee or anyone else liable on the Lease or sublease and without obtaining their consent, and such action shall not relieve such persons from liability under this Lease or sublease.

(d) In the event of any Default or Breach of Lessee's obligations under this Lease, Lessor may proceed directly against Lessee, any Guarantors or any one else responsible for the performance of the Lessee's obligations under this Lease, including the sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor or Lessee.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a non-refundable deposit of \$1,000 or ten percent (10%) of the current monthly Base Rent, whichever is greater, as reasonable consideration for Lessor's considering and processing the request for consent. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested by Lessor.

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed, for the benefit of Lessor, to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented in writing.

(g) The occurrence of a transaction described in Paragraph 12.1(c) shall give Lessor the right (but not the obligation) to require that the Security Deposit be increased to an amount equal to six (6) times the then monthly Base Rent, and Lessor may make the actual receipt by Lessor of the amount required to establish such Security Deposit a condition to Lessor's consent to such transaction.

(h) Lessor, as a condition to giving its consent to any assignment or subletting, may require that the amount and adjustment structure of the rent payable under this Lease be adjusted to what is then the market value and/or adjustment structure for property similar to the Premises as then constituted.

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all rentals and income arising from any sublease of all or a portion of the Premises heretofore or hereafter made by Lessee, and Lessor may collect such rent and income and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach (as defined in Paragraph 13.1) shall occur in the performance of Lessee's obligations under this Lease, Lessee may, except as otherwise provided in this Lease, receive, collect and enjoy the rents accruing under such sublease. Lessor shall not, by reason of this or any other assignment of such sublease to Lessor, nor by reason of the collection of the rents from a sublessee, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee under such sublease. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor the rents and other charges due and to become due under the sublease. Sublessee shall rely upon any such statement and request from Lessor and shall pay such rents and other charges to Lessor without any obligation or right to inquire as to whether such Breach exists and notwithstanding any notice from or claim from Lessee to the contrary. Lessee shall have no right or claim against said sublessee, or, until the Breach has been cured, against Lessor, for any such rents and other charges so paid by said sublessee to Lessor.

(b) In the event of a Breach by Lessee in the performance of its obligations under this Lease, Lessor, at its option and without any obligation to do so, may require any sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any other prior Defaults or Breaches of such sublessor under such sublease.

(c) Any matter or thing requiring the consent of the sublessor under a sublease shall also require the consent of Lessor herein.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. Lessor and Lessee agree that if an attorney is consulted by Lessor in connection with a Lessee Default or Breach (as hereinafter defined), \$350.00 is a reasonable minimum sum per such occurrence for legal services and costs in the preparation and service of a notice of Default, and that Lessor may include the cost of such services and costs in said notice as rent due and payable to cure said Default. A "Default" is defined as a failure by the Lessee to observe, comply with or perform any of the terms, covenants, conditions or rules applicable to Lessee under this Lease. A "Breach" is defined as the occurrence of any one or more of the following Defaults, and, where a grace period for cure after notice is specified herein, the failure by Lessee to cure such Default prior to the expiration of the applicable grace period, and shall entitle Lessor to pursue the remedies set forth in Paragraphs 13.2 and/or 13.3:

(a) The vacating of the Premises without the intention to reoccupy same, or the abandonment of the Premises.

(b) Except as expressly otherwise provided in this Lease, the failure by Lessee to make any payment of Base Rent or any other monetary payment required to be made by Lessee hereunder, whether to Lessor or to a third party, as and when due, the failure by Lessee to provide Lessor with reasonable evidence of insurance or surety bond required under this Lease, or the failure of Lessee to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three (3) days following written notice thereof by or on behalf of Lessor to Lessee.

(c) Except as expressly otherwise provided in this Lease, the failure by Lessee to provide Lessor with reasonable written evidence (in duly executed original form, if applicable) of (i) compliance with applicable law per Paragraph 6.3, (ii) the inspection, maintenance and service contracts required under Paragraph 7.1(b), (iii) the rescission of an unauthorized assignment or subletting per Paragraph 12.1(b), (iv) a Tenancy Statement per Paragraphs 16 or 37, (v) the subordination or non-subordination of this Lease per Paragraph 30, (vi) the guaranty of the performance of Lessee's obligations under this Lease if required under Paragraphs 1.11 and 37, (vii) the execution of any document requested under Paragraph 42 (easements), or (viii) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of ten (10) days following written notice by or on behalf of Lessor to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, that are to be observed, complied with or performed by Lessee, other than those described in subparagraphs (a), (b) or (c), above, where such Default continues for a period of thirty (30) days after written notice thereof by or on behalf of Lessor to Lessee; provided, however, that if the nature of Lessee's Default is such that more than thirty (30) days are reasonably required for its cure, then it shall not be deemed to be a Breach of this Lease by Lessee if Lessee commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) The making by Lessee of any general arrangement or assignment for the benefit of creditors; (ii) Lessee's becoming a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(f) The discovery by Lessor that any financial statement given to Lessor by Lessee or any Guarantor of Lessee's obligations hereunder was materially false.

(g) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a guarantor, (ii) the termination of a guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a guarantor's refusal to honor the guaranty, or (v) a guarantor's breach of its guaranty obligation on an anticipatory breach basis, and Lessee's failure, within sixty (60) days following written notice by or on behalf of Lessor to Lessee of any such event, to provide Lessor with written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any affirmative duty or obligation of Lessee under this Lease, within ten (10) days after written notice to Lessee (or in case of an emergency, without notice), Lessor may at its option (but without obligation to do so), perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Lessor shall be due and payable by Lessee to Lessor upon invoice therefor. If any check given to Lessor by Lessee shall not be honored by the bank upon which it is drawn, Lessor, at its option, may require all future payments to be made under this Lease by Lessee to be made only by cashier's check. In the event of a Breach of this Lease by Lessee, as defined in Paragraph 13.1, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach, Lessor may:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate and Lessee shall immediately surrender possession of the Premises to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the worth at the time of the award of the unpaid rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of the leasing commission paid by Lessor applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the prior sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Default or Breach of this Lease shall not waive Lessor's right to recover damages under this Paragraph. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding the unpaid rent and damages as are recoverable therein, or Lessor may reserve therein the right to recover all or any part thereof in a separate suit for such rent and/or damages. If a notice and grace period required under subparagraphs 13.1(b), (c) or (d) was not previously given, a notice to pay rent or quit, or to perform or quit, as the case may be, given to Lessee under any statute authorizing the forfeiture of leases for unlawful detainer shall also constitute the applicable notice for grace period purposes required by subparagraphs 13.1(b), (c) or (d). In such case, the applicable grace period under subparagraphs 13.1(b), (c) or (d) and under the unlawful detainer statute shall run concurrently after the one such statutory notice, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession in effect (in California under California Civil Code Section 1951.4) after Lessee's Breach and abandonment and recover the rent as it becomes due, provided Lessee has the right to sublet or assign, subject only to reasonable limitations. See Paragraphs 12 and 36 for the limitations on assignment and subletting which limitations Lessee and Lessor agree are reasonable. Acts of maintenance or preservation, efforts to relet the Premises, or the appointment of a receiver to protect the Lessor's interest under the Lease, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available to Lessor under the laws or judicial decisions of the state wherein the Premises are located.

(d) The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture In Event Of Breach. Any agreement by Lessor for free or abated rent or other charges applicable to the Premises, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease to be performed or observed by Lessee during the term hereof as the same may be extended. Upon the occurrence of a Breach of this Lease by Lessee, as defined in Paragraph 13.1, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, and recoverable by Lessor as additional rent due under this Lease, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this Paragraph shall not be deemed a waiver by Lessor of the provisions of this Paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee to Lessor of rent and other sums due hereunder will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by the terms of any ground lease, mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other sum due from Lessee shall not be received by Lessor or Lessor's designee within five (5) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay to Lessor a late charge equal to six percent (6%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent Lessor from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of Base Rent, then notwithstanding Paragraph 4.1 or any other provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Breach by Lessor. Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph 13.5, a reasonable time shall in no event be less than thirty (30) days after receipt by Lessor, and by the holders of any ground lease, mortgage or deed of trust covering the Premises whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than thirty (30) days after such notice are reasonably required for its performance, then Lessor shall not be in breach of this Lease if performance is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (all of which are herein called "condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than ten percent (10%) of the floor area of the Premises, or more than twenty-five percent (25%) of the land area not occupied by any building, is taken by condemnation, Lessee may, at Lessee's option, to be exercised in writing within ten (10) days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall

have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in the same proportion as the rentable floor area of the Premises taken bears to the total rentable floor area of the building located on the Premises. No reduction of Base Rent shall occur if the only portion of the Premises taken is land on which there is no building. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Lessee shall be entitled to any compensation, separately awarded to Lessee for Lessee's relocation expenses and/or loss of Lessee's trade fixtures. In the event that this Lease is not terminated by reason of such condemnation, Lessor shall to the extent of its net severance damages received, over and above the legal and other expenses incurred by Lessor in the condemnation matter, repair any damage to the Premises caused by such condemnation, except to the extent that Lessee has been reimbursed therefor by the condemning authority. Lessee shall be responsible for the payment of any amount in excess of such net severance damages required to complete such repair.

15. Broker's Fee.

15.1 The Brokers named in Paragraph 1.10 are the procuring causes of this Lease.

15.2 Upon execution of this Lease by both Parties, Lessor shall pay to said Brokers jointly, or in such separate shares as they may mutually designate in writing, a fee as set forth in a separate written agreement between Lessor and said Brokers (or in the event there is no separate written agreement between Lessor and said Brokers, the sum of \$_____) for brokerage services rendered by said Brokers to Lessor in this transaction.

15.3 Unless Lessor and Brokers have otherwise agreed in writing, Lessor further agrees that: (a) if Lessee exercises any Option (as defined in Paragraph 39.1) or any Option subsequently granted which is substantially similar to an Option granted to Lessee in this Lease, or (b) if Lessee acquires any rights to the Premises or other premises described in this Lease which are substantially similar to what Lessee would have acquired had an Option herein granted to Lessee been exercised, or (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of the term of this Lease after having failed to exercise an Option, or (d) if said Brokers are the procuring cause of any other lease or sale entered into between the Parties pertaining to the Premises and/or any adjacent property in which Lessor has an interest, or (e) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then as to any of said transactions, Lessor shall pay said Brokers a fee in accordance with the schedule of said Brokers in effect at the time of the execution of this Lease.

15.4 Any buyer or transferee of Lessor's interest in this Lease, whether such transfer is by agreement or by operation of law, shall be deemed to have assumed Lessor's obligation under this Paragraph 15. Each Broker shall be a third party beneficiary of the provisions of this Paragraph 15 to the extent of its interest in any commission arising from this Lease and may enforce that right directly against Lessor and its successors.

15.5 Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any named in Paragraph 1.10) in connection with the negotiation of this Lease and/or the consummation of the transaction contemplated hereby, and that no broker or other person, firm or entity other than said named Brokers is entitled to any commission or finder's fee in connection with said transaction. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

15.6 Lessor and Lessee hereby consent to and approve all agency relationships, including any dual agencies, indicated in Paragraph 1.10.

16. Tenancy Statement.

16.1 Each Party (as "Responding Party") shall within ten (10) days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Tenancy Statement" form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

16.2 If Lessor desires to finance, refinance, or sell the Premises, any part thereof, or the building of which the Premises are a part, Lessee and all Guarantors of Lessee's performance hereunder shall deliver to any potential lender or purchaser designated by Lessor such financial statements of Lessee and such Guarantors as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past three (3) years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Lessor's Liability.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or in this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor at the time of such transfer or assignment. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Interest on Past-Due Obligations.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor within thirty (30) days following the date on which it was due, shall bear interest from the thirty-first (31st) day after it was due at the rate of 12% per annum, but not exceeding the maximum rate allowed by law, in addition to the late charge provided for in Paragraph 13.4.

20. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

21. **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease are deemed to be rent.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 All notices required or permitted by this Lease shall be in writing and may be delivered in person (by hand or by messenger or courier service) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notice purposes. Either Party may by written notice to the other specify a different address for notice purposes, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for the purpose of mailing or delivering notices to Lessee. A copy of all notices required or permitted to be given to Lessor hereunder shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate by written notice to Lessee.

23.2 Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given forty-eight (48) hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the United States Postal Service or courier. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed served or delivered upon telephone confirmation of receipt of the transmission thereof; provided a copy is also delivered via delivery or mail. If notice is received on a Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.** No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. Regardless of Lessor's knowledge of a Default or Breach at the time of accepting rent, the acceptance of rent by Lessor shall not be a waiver of any preceding Default or Breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted. Any payment given Lessor by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

25. **Recording.** Either Lessor or Lessee shall, upon request of the other, execute, acknowledge and deliver to the other a short form memorandum of this Lease for recording purposes. The Party requesting recordation shall be responsible for payment of any fees or taxes applicable thereto.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or earlier termination of this Lease.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed by Lessor upon the real property of which the Premises are a part, to any and all advances made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof. Lessee agrees that the Lenders holding any such Security Device shall have no duty, liability or obligation to perform any of the obligations of Lessor under this Lease, but that in the event of Lessor's default with respect to any such obligation, Lessee will give any Lender whose name and address have been furnished Lessee in writing for such purpose notice of Lessor's default and allow such Lender thirty (30) days following receipt of such notice for the cure of said default before invoking any remedies Lessee may have by reason thereof. If any Lender shall elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device and shall give written notice thereof to Lessee, this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. Subject to the non-disturbance provisions of Paragraph 30.3, Lessee agrees to attorn to a Lender or any other party who acquires ownership of the Premises by reason of a foreclosure of a Security Device, and that in the event of such foreclosure, such new owner shall not: (i) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership, (ii) be subject to any offsets or defenses which Lessee might have against any prior lessor, or (iii) be bound by prepayment of more than one month's rent.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving assurance (a "non-disturbance agreement") from the Lender that Lessee's possession and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any such subordination or non-subordination, attornment and/or non-disturbance agreement as is provided for herein.

31. Attorney's Fees. If any Party or Broker brings an action or proceeding to enforce the terms hereof or declare rights hereunder, the Prevailing Party (as hereafter defined) or Broker in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorney's fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorney's fee award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorney's fees reasonably incurred. Lessor shall be entitled to attorney's fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach.

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or lessees, and making such alterations, repairs, improvements or additions to the Premises or to the building of which they are a part, as Lessor may reasonably deem necessary. Lessor may at any time place on or about the Premises or building any ordinary "For Sale" signs and Lessor may at any time during the last one hundred twenty (120) days of the term hereof place on or about the Premises any ordinary "For Lease" signs. All such activities of Lessor shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction upon the Premises without first having obtained Lessor's prior written consent. Notwithstanding anything to the contrary in this Lease, Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to grant such consent.

34. Signs. Lessee shall not place any sign upon the Premises, except that Lessee may, with Lessor's prior written consent, install (but not on the roof) such signs as are reasonably required to advertise Lessee's own business. The installation of any sign on the Premises by or for Lessee shall be subject to the provisions of Paragraph 7 (Maintenance, Repairs, Utility Installations, Trade Fixtures and Alterations). Unless otherwise expressly agreed herein, Lessor reserves all rights to the use of the roof and the right to install, and all revenues from the installation of, such advertising signs on the Premises, including the roof, as do not unreasonably interfere with the conduct of Lessee's business.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, Lessor shall, in the event of any such surrender, termination or cancellation, have the option to continue any one or all of any existing subtenancies. Lessor's failure within ten (10) days following any such event to make a written election to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents.

(a) Except for Paragraph 33 hereof (Auctions) or as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' or other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent pertaining to this Lease or the Premises, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, practice or storage tank, shall be paid by Lessee to Lessor upon receipt of an invoice and supporting documentation therefor. Subject to Paragraph 12.2(e) (applicable to assignment or subletting), Lessor may, as a condition to considering any such request by Lessee, require that Lessee deposit with Lessor an amount of money (in addition to the Security Deposit held under Paragraph 5) reasonably calculated by Lessor to represent the cost Lessor will incur in considering and responding to Lessee's request. Except as otherwise provided, any unused portion of said deposit shall be refunded to Lessee without interest. Lessor's consent to any act, assignment of this Lease or subletting of the Premises by Lessee shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent.

(b) All conditions to Lessor's consent authorized by this Lease are acknowledged by Lessee as being reasonable. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given.

37. Guarantor.

37.1 If there are to be any Guarantors of this Lease per Paragraph 1.11, the form of the guaranty to be executed by each such Guarantor shall be in the form most recently published by the American Industrial Real Estate Association, and each said Guarantor shall have the same obligations as Lessee under this Lease, including but not limited to the obligation to provide the Tenancy Statement and Information called for by Paragraph 16.

37.2 It shall constitute a Default of the Lessee under this Lease if any such Guarantor fails or refuses, upon reasonable request by Lessor to give: (a) evidence of the due execution of the guaranty called for by this Lease, including the authority of the Guarantor (and of the party signing on Guarantor's behalf) to obligate such Guarantor on said guaranty, and including in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, together with a certificate of incumbency showing the signatures of the persons authorized to sign on its behalf, (b) current financial statements of Guarantor as may from time to time be requested by Lessor, (c) a Tenancy Statement, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Upon payment by Lessee of the rent for the Premises and the observance and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession of the Premises for the entire term hereof subject to all of the provisions of this Lease.

39. Options.

39.1 Definition. As used in this Paragraph 39 the word "Option" has the following meaning: (a) the right to extend the term of this Lease or to renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal to lease the Premises or the right of first offer to lease the Premises or the right of first refusal to lease other property of Lessor or the right of first offer to lease other property of Lessor; (c) the right to purchase the Premises, or the right of first refusal to purchase the Premises, or the right of first offer to purchase the Premises, or the right to purchase other property of Lessor, or the right of first refusal to purchase other property of Lessor, or the right of first offer to purchase other property of Lessor.

39.2 Options Personal To Original Lessee. Each Option granted to Lessee in this Lease is personal to the original Lessee named in Paragraph 1.1 hereof, and cannot be voluntarily or involuntarily assigned or exercised by any person or entity other than said original Lessee while the original Lessee is in full and actual possession of the Premises and without the intention of thereafter assigning or subletting. The Options, if any, herein granted to Lessee are not assignable, either as a part of an assignment of this Lease or separately or apart therefrom, and no Option may be separated from this Lease in any manner, by reservation or otherwise.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later option cannot be exercised unless the prior Options to extend or renew this Lease have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option, notwithstanding any provision in the grant of Option to the contrary: (i) during the period commencing with the giving of any notice of Default under Paragraph 13.1 and continuing until the noticed Default is cured, or (ii) during the period of time any monetary obligation due Lessor from Lessee is unpaid (without regard to whether notice thereof is given Lessee), or (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessor has given to Lessee three (3) or more notices of Default under Paragraph 13.1, whether or not the Defaults are cured, during the twelve (12) month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) All rights of Lessee under the provisions of an Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and during the term of this Lease, (i) Lessee fails to pay to Lessor a monetary obligation of Lessee for a period of thirty (30) days after such obligation becomes due (without any necessity of Lessor to give notice thereof to Lessee), or (ii) Lessor gives to Lessee three or more notices of Default under Paragraph 13.1 during any twelve month period, whether or not the Defaults are cured, or (iii) if Lessee commits a Breach of this Lease.

40. Multiple Buildings. If the Premises are part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by, keep and observe all reasonable rules and regulations which Lessor may make from time to time for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of such other buildings and their invitees, and that Lessee will pay its fair share of common expenses incurred in connection therewith.

41. Security Measures. Lessee hereby acknowledges that the rental payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. Reservations. Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

43. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

44. Authority. If either Party hereto is a corporation, trust, or general or limited partnership, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. If Lessee is a corporation, trust or partnership, Lessee shall, within thirty (30) days after request by Lessor, deliver to Lessor evidence satisfactory to Lessor of such authority.

45. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. Offer. Preparation of this Lease by Lessor or Lessor's agent and submission of same to Lessee shall not be deemed an offer to lease to Lessee. This Lease is not intended to be binding until executed by all Parties hereto.

47. Amendments. This Lease may be modified only in writing, signed by the parties in interest at the time of the modification. The parties shall amend this Lease from time to time to reflect any adjustments that are made to the Base Rent or other rent payable under this Lease. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by an institutional, insurance company, or pension plan Lender in connection with the obtaining of normal financing or refinancing of the property of which the Premises are a part.

48. Multiple Parties. Except as otherwise expressly provided herein, if more than one person or entity is named herein as either Lessor or Lessee, the obligations of such multiple parties shall be the joint and several responsibility of all persons or entities named herein as such Lessor or Lessee.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

IF THIS LEASE HAS BEEN FILLED IN, IT HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR HIS APPROVAL. FURTHER, EXPERTS SHOULD BE CONSULTED TO EVALUATE THE CONDITION OF THE PROPERTY AS TO THE POSSIBLE PRESENCE OF ASBESTOS, STORAGE TANKS OR HAZARDOUS SUBSTANCES. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION OR BY THE REAL ESTATE BROKER(S) OR THEIR AGENTS OR EMPLOYEES AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES SHALL RELY SOLELY UPON THE ADVICE OF THEIR OWN COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE. IF THE SUBJECT PROPERTY IS LOCATED IN A STATE OTHER THAN CALIFORNIA, AN ATTORNEY FROM THE STATE WHERE THE PROPERTY IS LOCATED SHOULD BE CONSULTED.

The parties hereto have executed this Lease at the place on the dates specified above to their respective signatures.

Executed at _____ on _____ by LESSOR:	Executed at _____ on _____ by LESSEE:
By <u><i>Marlene Gaudio Becker</i></u> Name Printed: <u>Marlene G. Becker</u> Title: <u>Lessor</u>	By <u><i>Nazrul I. Ali</i></u> Name Printed: <u>Nazrul I. Ali</u> Title: <u>Lessee</u>
By _____ Name Printed: _____ Title: _____ Address: <u>1605 Westholme Avenue</u> <u>Los Angeles, CA 90024</u> Tel. No. (310) <u>474-9949</u> Fax No. () _____	By <u><i>Faisal Ahmed Ali</i></u> Name Printed: <u>Faisal Ali</u> Title: <u>Lessee</u> Address: <u>829 N. La Granga Blvd</u> <u>Los Angeles, Calif. 90069</u> Tel. No. () _____ Fax No. () _____

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PAGE 10

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: American Industrial Real Estate Association, 345 South Figueroa Street, Suite M-1, Los Angeles, CA 90071. (213) 687-6777. Fax No. (213) 687-8616.

ADDENDUM

49. Option to Extend Term.

49.1 Lessee is given the option to extend the initial term on all the provisions contained in this Lease, except for the minimum monthly rent, for a five-year period ("extended term") following expiration of the initial term, by giving notice of exercise of the option ("option notice") to Lessor at least nine months but not more than one year before the expiration of the initial term. Provided that, if Lessee is in default on the date of giving the option notice, the option notice shall be totally ineffective, or if Lessee is in default on the date the extended term is to commence, the extended term shall not commence and this lease shall expire at the end of the initial term.

49.2 The parties shall have 30 days after Lessor receives the option notice in which to agree on minimum monthly rent during the extended term. If the parties agree on the minimum monthly rent for the extended term during that period, they shall immediately execute an amendment to this lease stating the minimum monthly rent.

If the parties are unable to agree on the minimum monthly rent for the extended term within that period, then within 10 days after the expiration of that period each party, at its cost and by giving notice to the other party, shall appoint a real estate appraiser with at least 5 years' full-time commercial appraisal experience in the area in which the Premises are located to appraise and set the minimum monthly rent for the extended term. If a party does not appoint an appraiser within 10 days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall be the sole appraiser and shall set the minimum monthly rent for the extended term. If the two appraisers are appointed by the parties as stated in this paragraph, they shall meet promptly and attempt to set the minimum monthly rent for the extended term. If they are unable to agree within 30 days after the second appraiser has been appointed, they shall attempt to select a third appraiser meeting the qualifications stated in this paragraph within 10 days after the last day the two appraisers are given to set the minimum monthly rent. If they are unable to agree on the third appraiser, either of the parties to this lease by giving 10 days notice to the other party can file a petition with the American Arbitration Association solely for the purpose of selecting a third appraiser who meets the qualifications stated in this paragraph. Each party shall bear half the cost of the American Arbitration Association appointing the third appraiser and of paying the third appraiser's fee. The third appraiser, however

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selected, shall be a person who has not previously acted in any capacity for either party.

Within 30 days after the selection of the third appraiser, a majority of the appraisers shall set the minimum monthly rent of the extended term. If a majority of the appraisers are unable to set the minimum monthly rent within the stipulated period of time, the three appraisals shall be added together and their total divided by three; the resulting quotient shall be the minimum monthly rent for the Premises during the extended term. "Appraisal" as used herein shall mean a determination of the fair market rental value of the property.

If, however, the low appraisal and/or the high appraisal is more than 10% lower and/or higher than the middle appraisal, the low appraisal and/or the high appraisal shall be disregarded. If only one appraisal is disregarded, the remaining two appraisals shall be added together and their total divided by two; the resulting quotient shall be the minimum monthly rent for the Premises during the extended term. If both the low appraisal and the high appraisal are disregarded as stated in this paragraph, the middle appraisal shall be the minimum monthly rent for the Premises during the extended term.

After the minimum monthly rent for the extended term has been set, the appraisers shall immediately notify the parties. If Lessee objects to the minimum monthly rent that has been set, Lessee shall have the right to have this lease expire at the end of the term, provided that Lessee pays all the reasonable costs in connection with the appraisal procedure that set the minimum monthly rent. Lessee's election to allow this lease to expire at the end of the term must be exercised within 10 days after receipt of notice from the appraisers for the minimum monthly rent for the extended term. If Lessee does not exercise its election within the 10-day period, the term of this lease shall be extended as provided in this paragraph. In no event shall the rent set under this paragraph 49.2 be less than the monthly rent of the last year of the initial term.

50. Commencing on December 1, 1992, the minimum monthly rent shall be the sum of \$3,900.00 per month. The minimum monthly rent of \$3,900.00 per month provided for in this paragraph shall be subject to a 4% increase at the commencement of the second year of the initial term, that is, April 1, 1993, and at the commencement of and for each subsequent year of the initial term the monthly rent shall be increased by 4% over the rent in the immediately preceding month. The minimum monthly rent set for the extended term shall be subject to a 4% increase at the commencement of the second year of the extended term, and at the commencement of and for each subsequent year

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of the extended term, the monthly rent shall be increased by 4% over the rent in the immediately preceding month.

51. Acceptance of Premises. Lessee acknowledges that neither Lessor nor any agent nor any employee of Lessor has made any representation with respect to the Premises, whether the Premises comply with all applicable covenants or restrictions of record and applicable building codes, regulations, and ordinances in effect on the commencement of the lease, nor has Lessor made any representations concerning the suitability of the Premises for the conduct of Lessee's business. Lessee warrants and represents that it has inspected the Premises and the condition thereof, and has investigated all applicable covenants and restrictions of record and applicable building codes, regulations and ordinances with regard to the suitability of the Premises for the conduct of Lessee's business, and Lessee agrees to accept the Premises "as is" and "with all faults", and Lessor shall have no obligation to improve the Premises in any way; however, Lessor shall be obligated to expend up to \$750.00 to place the air conditioning system in operating condition, and Lessor shall patch up three small areas of damaged stucco and deliver the roof in a water-tight condition. Lessee does hereby waive and disclaim any objection, claim, or cause of action respecting the condition of the Premises or the suitability of same for Lessee's purposes.

52. Insuring Party. Lessee is the "Insuring Party" under this lease.

53. Furniture, Fixtures, and Equipment. Lessee shall have the use of Lessor's furniture, fixtures and equipment currently on the Premises, said furniture, fixtures and equipment to be set forth in writing and acknowledged by Lessor and Lessee. Lessee shall pay any personal property tax attributable to such property and shall not dispose of any such property without the Lessor's written consent.

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FIRST AMENDMENT OF LEASE

This First Amendment of Lease dated September 15, 1992 (the date being for reference purposes only), is made by and between MARLENE G. BECKER ("Landlord") and NAZRUL I. ALI and FAISAL ALI ("Tenant"), who agree as follows:

1. Recitals. This First Amendment of Lease is made with reference to the following facts and objectives:

a. Landlord and Tenant entered into a written lease dated April 1, 1992 ("the lease"), in which Landlord leased to Tenant, and Tenant leased from Landlord premises located in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 829 North La Cienega Boulevard, and more particularly described in the lease.

b. The parties desire to amend the lease.

2. Additional Property Added to Lease. There is hereby added to paragraph 1.2 of the lease the following additional property owned by Landlord:

That portion of Lot "S" in Block 1 of Tract No. 4769, as per map recorded in Book 52 Pages 23 to 25 of Maps, in the office of the County Recorder of said County, lying between the Westerly prolongation of the Northerly line of the Southerly 16 feet of Lot 11 in Block 1 of said Tract No. 4769 and the Westerly prolongation of the Northerly line of the Southerly 8 feet of Lot 10 in Block 1 of said Tract No. 4769.

All provisions of the lease shall apply to this property added to the lease.


3. Effectiveness of Lease. Accept as set forth in this First Amendment of Lease, all the provisions of the lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have signed this First Amendment of Lease on the date set forth opposite their signatures.

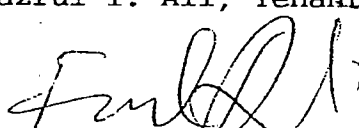
DATED: 11-7-92


Marlene G. Becker, Landlord

DATED: 7-2-02



Nazrul I. Ali, Tenant



Faisal Ali, Tenant

SECOND AMENDMENT OF LEASE

This Second Amendment of Lease dated April 1, 1996 (the date being for reference purposes only), is made by and between MARLENE G. BECKER ("Lessor") and Anthony Cacciotti, Brian Reed, and AMICI DI LOS ANGELES, a California corporation (collectively "Lessee"), who agree as follows:

1. Recitals. This Second Amendment of Lease is made with reference to following facts and objectives:

a. Lessor and Nazrul I. Ali and Faisal Ali ("Ali's") entered into a written lease dated April 1, 1992 ("the lease"), in which lessor leased to Ali's premises located in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 829 North La Cienega Boulevard, and more particularly described in the lease.

b. Lessor and Ali's entered into a First Amendment of Lease dated September 15, 1992, in which the property described in said Second Amendment of Lease was added to the lease.

c. The lease referred to above was assigned by Ali's to Anthony Cacciotti, individually, and Amici Di Los Angeles, a California Corporation, pursuant to a written Assignment of Lease dated June 21, 1993, and to which landlord consented.

d. The parties hereto now desire to amend the lease as follows:

2. Paragraph 50 of the lease is amended to add the following to said paragraph: "Notwithstanding the provisions of this paragraph 50, the monthly rent that is the minimum monthly rent for the period of April 1, 1996, to and including March 30, 1997, shall be the sum of \$4,261.00 a month. Lessee agrees that during the period of April 1, 1996, through March 30, 1997, Lessor shall receive credit at the restaurant operated on the premises by Lessee equal to \$200.00 a month and to be used for purchases of food and beverages at said restaurant. The credit during said period of time shall accrue on a cumulative basis, i.e. credits not used in one month shall be carried over to the following month; however all credits must be used by Lessor during the twelve month period, and if not used, no further credit shall be available. Commencing April 1, 1997, and through the period of March 30, 1998, the rent will revert to \$4,743.00 per month, and the rent thereafter shall be increased by 4% yearly as provided in the lease.

Mar. 8. 1996 2:54PM

No. 3928 P. 4/5

3. **Option Period.** The first sentence of paragraph 49.1 of the lease is amended to read as follows: "Lessee is given the option to extend the initial term on all the provisions contained in this lease, except for the minimum monthly rent, for a period of seven years and six months ("extended term") following expiration of the initial term, by giving notice of exercise of the option ("option notice") to Lessor at least nine months, but not more than one year, before the expiration of the initial term."

4. **Effectiveness of Lease.** Except as set forth in this Second Amendment of Lease, all of the provisions of the lease and the First Amendment of Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have signed this Second Amendment of Lease on the date set forth opposite their signatures.

Dated: 4/12, 1996 Marlene G. Becker
MARLENE G. BECKER, Lessor

Dated: 4/5, 1996 Anthony Cacciotti
ANTHONY CACCIOTTI, Individually

Dated: 4/5, 1996 Brian Reed
BRIAN REED, Individually

Dated: 4/5, 1996 AMICI DI LOS ANGELES,
A California Corporation

BY Anthony Cacciotti
ANTHONY CACCIOTTI, President

CONSENT OF NAZRUL I. ALI AND FAISAL ALI

The undersigned Nazrul I. Ali and Faisal Ali are the lessees in the above-described lease dated April 1, 1992, and are the assignors of the lease as set forth in the above-described Assignment of Lease. Nazrul I. Ali and Faisal Ali agree that in accordance with the above-described Assignment of Lease, they remain liable for the performance of the provisions of the lease, even though the assignee has personal and direct liability to the lessor for performance of all provisions of the lease. By reason of this Second Amendment of Lease, Nazrul I. Ali and Faisal Ali agree and acknowledge that they will continue to be bound by the provisions of the lease; however, lessor, by her signature below,

Mar. 8. 1996 2:55PM

No. 3928 P. 5/5

agrees that Nazrul I. Ali and Faisal Ali shall not be liable under the lease during the last two years and six months of the lease, if the lessee exercises its option to extend the term.

Dated: _____, 1996

NAZRUL I. ALI

FAISAL ALI

Dated: _____, 1996

MARLENE G. BECKER, Lessor

THIRD AMENDMENT OF LEASE

This Third Amendment of Lease, dated October 7, 1997, is made by and between Marlene G. Becker, ("Lessor") and Bistro Provencal, Ltd., a California Limited Partnership, Jean Francois, Inc., a California corporation, and Jean Francois Meteigner, individually (collectively "Lessee"), who agree as follows:

1. **Recitals.** This Third Amendment of Lease is made with reference to the following facts and objectives:

a. Lessor and Nazrul I. Ali and Faisal Ali ("Ali's") entered into a written lease dated April 1, 1992 ("the Original Lease"), in which Lessor leased to Ali's premises located in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 829 North La Cienega Boulevard (the "Original Premises"), and more particularly described in the lease.

b. Lessor and Ali's entered into a First Amendment of Lease dated September 15, 1992, in which the property described in said Second Amendment of Lease was added to the Lease (this additional property together with the Original Premises is referred to herein as the "Premises").

c. The Original Lease was assigned by Ali's to Anthony Cacciotti ("Cacciotti"), individually, and Amici Di Los Angeles, a California Corporation ("Amici"), pursuant to a written Assignment of Lease dated June 21, 1993, and to which Landlord consented.

d. Lessor and Cacciotti, Brian Reed, and Amici entered into a Second Amendment of Lease dated April 1, 1996, in which Brian Reed was added as a Lessee, and certain rent adjustments were made.

e. The Original Lease, as amended, was assigned by Cacciotti and Amici to Brian Reed pursuant to an Assignment of Lease dated June 20, 1997, and to which Landlord consented.

f. The Original Lease as amended by the First Amendment of Lease and the Second Amendment of Lease is referred to herein as "the Lease".

g. Contingent upon and concurrently with the execution of this Third Amendment of Lease, the parties shall have entered into that certain Assignment of Lease ("Assignment") dated September 1, 1997, by and between Lessor, Brian Reed, and Lessee.

h. The parties hereto now desire to amend the lease as follows:

2. Paragraph 50 of the lease is amended to add the following to said paragraph: "Notwithstanding anything to the contrary in the provisions of this paragraph 50, the minimum monthly rent for the period commencing with the effective date of the Assignment to Lessee referenced above, through and including March 30, 1998, shall be the sum of \$4,511.00 per month; and for the period of April 1, 1998 to May 31, 1999, the minimum monthly rent shall be the sum of \$4,733.00 per month. In addition to the rent stated herein, Lessor shall receive credit at the restaurant operated on the premises by Lessee equal to \$200 a month, to be used for purchases of food and beverages at said restaurant. The credit during said period of time shall accrue on a cumulative basis, i.e., credits not used in one month shall be carried over to the following month; however, all credits used by Lessor must be used between the effective date of this Third Amendment of Lease and May 31, 1999 (or they become null and void, and Lessor shall have no right to use any accumulated credit thereafter)."

3. The first sentence of paragraph 49.1 of the Lease is amended as follows: "Lessee is given the option to extend the initial term on all the provisions contained in this Lease, except for the minimum monthly rent, for a seven and one-half (7 1/2) year period (the "first extended term") following expiration of the initial term by giving notice of exercise of the option ("option notice") to Lessor at least nine(9) months, but no more than one(1) year before the expiration of the initial term."

4. Paragraph 49.2 of the Lease is amended to provide an additional paragraph as follows: "Notwithstanding anything to the contrary in the provisions of paragraph 49 of this Lease, the minimum monthly rent for the first year of the first seven and one-half(7 1/2) year extended term of the Lease shall not be less than \$4,933 per month, nor more than \$5,500 per month. During the first seven and one-half(7 1/2) year extended term, Lessor shall be entitled to \$200 per month food and beverage credit and the credit during the first extended term shall accrue on a cumulative basis per year during the term of this extension, i.e., credits not used in any month in any year shall be carried over to the following month or months; however, all credits earned during the first extended term must be used in the 12-month period following May 31 of each year, and if not so used, they become null and void and Lessor shall have no right to use any accumulated credit for that 12-month period thereafter. Further, all credits in the last 6 months of the first extended term must be used during said 6 months."

5. The third sentence of Paragraph 50 of the Lease is

amended to read as follows: "The minimum monthly rent set for the first extended term shall be subject to a 3% increase at the commencement of the second year of the first extended term, and at the commencement of and for each subsequent year of the first extended term whereby the monthly rent shall be increased by 3% over the monthly rent in the immediately preceding year."

6. A new paragraph 54 is added to the Lease as follows:

"54. Option For Second Extended Term.

54.1. Lessee is given an option to extend the first extended term of the Lease on all of the provisions contained in this Lease, except for the minimum monthly rent for an additional 5-year period ("second extended term") following expiration of the first extended term, by giving notice of exercise of the option ("option notice") to Lessor at least 9 months, but not more than one year, before the expiration of the first extended term. Provided that, if Lessee is in default on the date of giving the option notice, the option notice shall be totally ineffective, or if Lessee is in default on the date the extended term is to commence, the extended term shall not commence and this Lease shall expire at the end of the first extended term.

54.2. The appraisal provisions of paragraph 49.2 of the Lease are incorporated herein by this reference; however, whenever in said paragraph the term "extended term" is used, it shall mean the "second extended term"; and whenever the term "initial term" is used in said paragraph 49.2, it shall mean the "first extended term."

54.3. The minimum rent during the first year of the second extended term shall not be less than the monthly rent in the month immediately preceding commencement of the second extended term, nor more than a 10% increase over the monthly rent in the last 6 months of the first extended term. The minimum monthly rent set for the second extended term shall be subject to a 3% increase at the commencement of the second year of the second extended term, and at the commencement of each and for each subsequent year of the second extended term whereby the monthly rent shall be increased by 3% over the monthly rent in the immediately preceding year. Lessor shall be entitled to a \$200 food and beverage credit during each year of the second extended term, and the credit during the second extended term shall accrue on a cumulative basis per year during the term of this extension, i.e., credits not used in any month in any year shall be carried over to the following month or months; however, all credits earned during the second extended term must be used in the 12-month period following November 30 of each year, and if not so used, they become null and void and

Lessor shall have no right to use any accumulated credit for that 12-month period thereafter."

7. A paragraph 55 is added to the lease as follows:
"Consideration for This Amendment and Effective Date. As consideration for Lessor granting to Lessee the option to extend the term of the Lease contained herein, Lessee shall pay to Lessor the sum of \$6,000.00. This Third Amendment of Lease shall not become effective unless and until the Assignment of Lease referenced in recital 1.e. above has become effective."

8. Paragraph 39.2 of the Lease is hereby deleted in its entirety and the following is added in lieu thereof:
"Lessor hereby consents to and approves of the assignment of all options contained in the Lease and referenced in the Third Amendment to the Lessee named in the Third Amendment of Lease. Any options granted to Lessee are assignable in connection with an assignment or sublease of the Lease; provided, however, that the provisions of paragraph 12 of the Lease are unaffected by this amendment."

9. **Effectiveness of Lease.** Except as set forth in this Third Amendment of Lease, all of the provisions of the Lease and Amendments thereto shall remain unchanged and in full force and effect.


10. **Counterparts.** This Third Amendment of Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same agreement.

11. **Governing Law.** This Third Amendment to Lease shall be governed by and construed in accordance with the laws of the State of California.

12. **Entire Agreement.** This Third Amendment to Lease is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties hereto with respect thereto. This Third Amendment to Lease may not be altered, amended, changed, terminated or modified in any respect or particular, unless the same shall be in writing and signed by the party to be charged and unless such amendment has been approved in writing by Lessor.

IN WITNESS WHEREOF, the parties have signed this Third Amendment of Lease on the date set forth opposite their signatures.

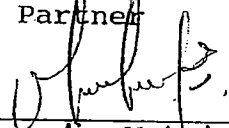
Dated: 10/7, 1997


Marlene G. Becker,
Landlord

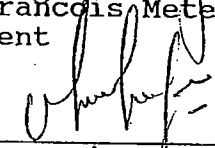
Bistro Provencal, Ltd., a
California Limited
Partnership, Lessee

Dated: 10-7-, 1997

By: Jean Francois, Inc., a
California corporation,
General Partner

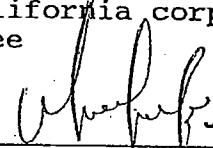
By: 
Jean Francois Meteigner,
President

Dated: 10-7, 1997


Jean Francois Meteigner,
individually, Lessee

Jean Francois, Inc.,
a California corporation,
Lessee

Dated: 10-7, 1997

By: 
Jean Francois Meteigner,
President, Lessee

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PAGE 02

FOURTH AMENDMENT OF LEASE

This Fourth Amendment of Lease, dated January 1, 2004, is made by and between Bernard B. Becker and Marlene G. Becker, individually, and as Trustees of BECKER LIVING TRUST ("Lessor") and Thaddeus Smith ("Smith") and John Lahr ("Lahr") (collectively, "Lessee"), who agree as follows:

1. Recitals. This Fourth Amendment of Lease is made with reference to the following facts and objectives:

a. Marlene G. Becker as lessor and Nazrul I. Ali and Faisal Ali ("Ali") entered into a written lease dated April 1, 1992 ("the Original Lease"), in which Lessor leased to Ali premises located in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 829 North La Cienega Boulevard (the "Original Premises"), and more particularly described in the lease.

b. Marlene G. Becker as lessor and Ali entered into a First Amendment of Lease dated September 15, 1992, in which the property described in said First Amendment of Lease was added to the Lease (this additional property together with the Original Premises is referred to herein as the "Premises").

c. The Original Lease was assigned by Ali to Anthony Cacciotti ("Cacciotti"), individually, and Amici Di Los Angeles, a California Corporation ("Amici"), pursuant to a written Assignment of Lease dated June 21, 1993, and to which Marlene G. Becker as lessor consented.

d. Marlene G. Becker as lessor and Cacciotti, Brian Reed, and Amici entered into a Second Amendment of Lease dated April 1, 1996, in which Brian Reed was added as a Lessee, and certain rent adjustments were made.

e. The Original Lease, as amended, was assigned by Cacciotti and Amici to Brian Reed pursuant to an Assignment of Lease dated June 20, 1997, and to which Marlene G. Becker as lessor consented.

f. Marlene G. Becker as lessor and Bistro Provencal, Ltd., a California Limited Partnership, Jean Francois, Inc., a California corporation, and Jean Francois Miteigner entered into a Third Amendment of Lease dated October 7, 1997.

g. The Original Lease as amended, was assigned by Bistro

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PAGE 03

Provençal, Ltd., Jean Francois, Inc., and Jean Francois Meteigner to Thaddeus Smith and John Lahr pursuant to a written Assignment of Lease dated February 24, 1999, and to which Marlene G. Becker as lessor consented.

h. The Original Lease as amended by the First Amendment of Lease, the Second Amendment of Lease, and the Third Amendment of Lease is referred to herein as the "Lease".

i. Concurrently with the execution of this Fourth Amendment of Lease, the Lessor and Lessee have entered into that certain Assignment of Lease ("Assignment") dated January 1, 2004, with Gregory Morris as the assignee (Assignee").

j. The parties hereto now desire to amend the lease as follows:

2. A Paragraph 56 is added to the lease as follows:
"Commencing on the effective day of this Fourth Amendment of Lease, and for every extended term of the Lease, Lessor shall be entitled to a \$250 per month food and beverage credit, with credits not used in any month in any calendar year to be carried over to the following month or months; however, all credits earned in any calendar year must be used by the end of the subsequent calendar year, and if not so used, any accumulated credits become null and void.

3. Paragraph 54, including Paragraphs 54.1, 54.2, and 54.3, of the Third Amendment of Lease are deleted and the following is inserted:

"54. Option For Second Extended Term.

54.1 Lessee is given an option to extend the first extended term of the Lease on all of the provisions contained in the Lease, except for the minimum monthly rent, for an additional 5-year period ("second extended term") following expiration of the first extended term, by giving notice of exercise of the option ("option notice") to Lessor at least 9 months, but not more than one year, before the expiration of the first extended term. Provided that, if Lessee is in default on the date of giving the option notice, the option notice shall be totally ineffective, or if Lessee is in default on the date the extended term is to commence, the extended term shall not commence and this Lease shall expire at the end of the first extended term.

54.2 The minimum monthly rent during the first year of the second extended term commencing December 1, 2006, shall be \$6,871 a month. The minimum monthly rent of \$ 6,871 for the first year of the second extended term shall be subject to a three percent (3%)

01/19/2004 11:17 13234 899

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PAGE 04

increase at the commencement of the second year of the second extended term, and at the commencement of each and for each subsequent year of the second extended term whereby the monthly rent shall be increased by three percent (3%) over the monthly rent in the immediately preceding year."

4. A new Paragraph 56 is added to the Lease as follows:

"56. Option For Third Extended Term.

56.1 Lessee is given an option to extend the second extended term of the Lease on all of the provisions contained in this Lease, except for the minimum monthly rent, for an additional seven-year period ("third extended term") following expiration of the second extended term, by giving notice exercise of the option ("option notice") to Lessor at least nine (9) months, but not more than one (1) year, before the expiration of the second extended term. Provided that, if Lessee is in default on the date of giving the option notice, the option notice shall be totally ineffective, or if the Lessee is in default on the date the extended term is to commence, the extended term shall not commence and this Lease shall expire at the end of the second extended term.

56.2 The minimum monthly rent during the first year of the third extended term commencing December 1, 2011 shall be the sum of \$ 8,633 a month. The minimum monthly rent of \$8,633 a month for the first year of the third extended term shall be subject to a three percent (3%) increase at the commencement of the second year of the third extended term, and at the commencement of each and for each subsequent year of the third extended term whereby the monthly rent shall be increase by three percent (3%) over the monthly rent in the immediately preceding year."

5. A Paragraph 57 is added to the Lease as follows:

"57. Liability of Thaddeus Smith and John Lahr. If the option for the third extended term is exercised, Thaddeus Smith and John Lahr will not be liable under this Lease for any obligations incurred under the Lease subsequent to the commencement of the third extended term."

6. A Paragraph 58 is added to the Lease as follows:

"58. Sale of Premises. In the event that during the term of this Lease, Lessor determines to sell the Premises, Lessor will advise Lessee in writing of Lessor's intent to sell and allow Lessee a period of ~~thirty~~ ^{SIXTY} (60) days from the date of the notice to negotiate with Lessor for a purchase of the Premises. In the event Lessor and Lessee do not

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PAGE 05

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thirty (30)
arrive at a signed Purchase and Sale Agreement within said days, Lessor is free anytime thereafter to negotiate with whomever Lessor desires for a sale of the Premises."

7. A Paragraph 59 is added to the Lease as follows:

"59. Tax Increases. Notwithstanding anything to the contrary in the Lease, Lessee shall not be liable for increases in real property taxes resulting from a voluntary sale of the Premises by Lessor."


8. Effectiveness of Lease. Except as set forth in this Fourth Amendment of Lease, all of the provisions of the Lease and Amendments thereto shall remain unchanged and in full force and effect.

9. Counterparts. This Fourth Amendment of Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same agreement.

10. Entire Agreement. This Fourth Amendment of Lease is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties hereto with respect thereto. This Fourth Amendment of Lease may not be altered, amended, changed, terminated or modified in any respect or particular, unless the same shall be in writing and signed by the party to be charged and unless such amendment has been approved in writing by Lessor.

11. Effective Date of Amendment. This Amendment will become effective concurrently with the effectiveness of that certain Assignment of Lease ("Assignment") dated January 1, 2004, made by and between Bernard B. Becker and Marlene G. Becker, individually, and as Trustees of BECKER LIVING TRUST ("Lessor"), Thaddeus Smith and John Lahr ("Assignor"), and Greg Morris, ("Assignee"). Assignee agrees that he will expend no less than \$100,00 to improve the Premises during the first year of his tenancy under the Lease and will in such first year provide Lessor with evidence of such expenditures.

IN WITNESS WHEREOF, the parties have signed this Fourth Amendment of Lease as of the date first above written.


Marlene G. Becker,
Individually and as Trustee
of the BECKER LIVING
TRUST

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PAGE 06

Bernard B. Becker

Bernard B. Becker,
Individually and as Trustee
of the BECKER LIVING
TRUST

Thaddeus Smith

Thaddeus Smith

John D. Lahr

John Lahr

FIFTH AMENDMENT OF LEASE

This Fifth Amendment of Lease, dated May 21, 2012, is made by and between Bernard B. Becker and Marlene G. Becker, individually, and as Trustees of Becker Living Trust ("Lessor") and Gregory Morris ("Lessee"), who agree as follows:

1. Recitals. This Fifth Amendment of Lease is made with reference to the following facts and objectives:

a. Marlene G. Becker as lessor and Nazrul I. Ali and Faisal Ali ("Ali") entered into a written lease dated April 1, 1992 ("the Original Lease"), in which Lessor leased to Ali premises located in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 829 North La Cienega Boulevard (the "Original Premises"), and more particularly described in the lease.

b. Marlene G. Becker as lessor and Ali entered into a First Amendment of Lease dated September 15, 1992, in which the property described in said First Amendment of Lease was added to the Lease (this additional property together with the Original Premises is referred to herein as the "Premises").

c. The Original Lease was assigned by Ali to Anthony Cacciotti ("Cacciotti"), individually, and Amici Di Los Angeles, a California Corporation ("Amici"), pursuant to a written Assignment of Lease dated June 21, 1993, and to which Marlene G. Becker as lessor consented.

d. Marlene G. Becker as lessor and Cacciotti, Brian Reed, and Amici entered into a Second Amendment of Lease dated April 1, 1996, in which Brian Reed was added as a Lessee, and certain rent adjustments were made.

e. The Original Lease, as amended, was assigned by Cacciotti and Amici to Brian Reed pursuant to an Assignment of Lease dated June 20, 1997, and to which Marlene G. Becker as lessor consented.

f. Marlene G. Becker as lessor and Bistro Provencal, Ltd., a California Limited Partnership, Jean Francois, Inc., a California corporation, and Jean Francois Meteigner entered into a Third Amendment of Lease dated October 7, 1997.

g. The Original Lease as amended, was assigned by Bistro Provencal, Ltd., Jean Francois, Inc., and Jean Francois Meteigner to

Thaddeus Smith and John Lahr pursuant to a written Assignment of Lease dated February 24, 1999, and to which Marlene G. Becker as lessor consented.

h. Lessor and Thaddeus Smith and John Lahr entered into a Fourth Amendment of Lease dated January 1, 2004.

h. The Original Lease as amended by the First Amendment of Lease, the Second Amendment of Lease, the Third Amendment of Lease, and the Fourth Amendment of Lease is referred to herein as the "Lease".

i. Concurrently with the execution of this Fifth Amendment of Lease, the Lessor and Lessee have entered into that certain Assignment of Lease ("Assignment") dated August 29, 2011, with 829 La Cienega LLC, a California limited liability company as the assignee (Assignee").

j. The parties hereto now desire to amend the lease as follows:

2. Paragraph 56 added to the Lease by the Fourth Amendment is amended to read as follows: "Commencing on the effective date of this Fifth Amendment of Lease, and for the current and every extended term of the Lease, Lessor shall be entitled to a \$750 per month food and beverage credit, with credits not used in any month to be carried over to the following month or months for not more than 90 days after the month in which the credits were earned.

3. Paragraph 1.7 of the lease is amended to provide that the amount of the Security Deposit will be \$8,633.

4. Paragraph 8.2(a) of the Lease is amended to provide that the amount of liability insurance is increased from \$1,000,000 to \$5,000,000.

5. Paragraph 12.2(e) of the Lease is amended to increase the amount of the \$1,000 non-refundable deposit to \$2,500.

6. A new Paragraph 60 is added the Lease as follows:

"60. Option For Fourth Extended Term.

60.1 Lessee is given an option to extend the third extended term of the Lease on all of the provisions contained in this Lease, except for the minimum monthly rent, for an additional five-year period ("fourth extended term") following expiration of the third extended term, by giving notice exercise of the option ("option notice")

to Lessor at least nine (9) months, but not more than one (1) year, before the expiration of the third extended term. Provided that, if Lessee is in default on the date of giving the option notice, the option notice shall be totally ineffective, or if the Lessee is in default on the date the extended term is to commence, the extended term shall not commence and this Lease shall expire at the end of the third extended term.

60.2 The parties shall have 30 days after Lessor receives the option notice in which to agree on minimum monthly rent during the extended term. If the parties agree on the minimum monthly rent for the extended term during that period, they shall immediately execute an amendment to this lease stating the minimum monthly rent.

If the parties are unable to agree on the minimum monthly rent for the extended term within that period, then within 10 days after the expiration of that period each party, at its cost and by giving notice to the other party, shall appoint a real estate appraiser with at least 5 years' full-time commercial appraisal experience in the area in which the Premises are located to appraise and set the minimum monthly rent for the extended term. If a party does not appoint an appraiser within 10 days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall be the sole appraiser and shall set the minimum monthly rent for the extended term. If the two appraisers are appointed by the parties as stated in this paragraph, they shall meet promptly and attempt to set the minimum monthly rent for the extended term. If they are unable to agree within 30 days after the second appraiser has been appointed, they shall attempt to select a third appraiser meeting the qualifications stated in this paragraph within 10 days after the last day the two appraisers are given to set the minimum monthly rent. If they are unable to agree on the third appraiser, either of the parties to this lease by giving 10 days notice to the other party can file a petition with the American Arbitration Association solely for the purpose of selecting a third appraiser who meets the qualifications stated in this paragraph. Each party shall bear half the cost of the American Arbitration Association appointing the third appraiser and of paying the third appraiser's fee. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for either party.

Within 30 days after the selection of the third appraiser, a majority of the appraisers shall set the minimum monthly rent of the extended term. If a majority of the appraisers are unable to set the minimum monthly rent within the stipulated period of time, the three appraisals shall be added together and their total divided by three; the resulting quotient shall be the minimum monthly rent for the Premises during the extended term. "Appraisal" as used herein shall

mean a determination of the fair market rental value of the property.

If, however, the low appraisal and/or the high appraisal is more than 10% lower and/or higher than the middle appraisal, the low appraisal and/or the high appraisal shall be disregarded. If only one appraisal is disregarded, the remaining two appraisals shall be added together and their total divided by two; the resulting quotient shall be the minimum monthly rent for the Premises during the extended term. If both the low appraisal and the high appraisal are disregarded as stated in this paragraph, the middle appraisal shall be the minimum monthly rent for the Premises during the extended term.

After the minimum monthly rent for the extended term has been set, the appraisers shall immediately notify the parties. If Lessee objects to the minimum monthly rent that has been set, Lessee shall have the right to have this lease expire at the end of the third extended term, provided that Lessee pays all the reasonable costs in connection with the appraisal procedure that set the minimum monthly rent. Lessee's election to allow this lease to expire at the end of the term must be exercised within 10 days after receipt of notice from the appraisers of the minimum monthly rent for the extended term. If Lessee does not exercise its election within 10-day period, the term of this lease shall be extended as provided in this paragraph. In no event shall the rent set under this paragraph 60.2 be less than the monthly rent of the last year of the third extended term.

60.3 The minimum monthly rent set for the fourth extend term shall be subject to a 3% increase at the commencement of the second year of the fourth extended term, and at the commencement of and for each subsequent year of the fourth extended term.

5. A Paragraph 61 is added to the Lease as follows:

"61. Liability of Gregory Morris. If the option for the fourth extended term is exercised, Gregory Morris will not be liable under this Lease for any obligations incurred under the Lease subsequent to the commencement of the fourth extended term."

8. Effectiveness of Lease. Except as set forth in this Fifth Amendment of Lease, all of the provisions of the Lease and Amendments thereto shall remain unchanged and in full force and effect.

9. Counterparts. This Fifth Amendment of Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same agreement.

10. **Entire Agreement.** This Fifth Amendment of Lease is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties hereto with respect thereto. This Fifth Amendment of Lease may not be altered, amended, changed, terminated or modified in any respect or particular, unless the same shall be in writing and signed by the party to be charged and unless such amendment has been approved in writing by Lessor.

11. **Effective Date of Amendment.** This Amendment will become effective concurrently with the effectiveness of that certain Assignment of Lease ("Assignment") dated May 21, 2012, made by and between Bernard B. Becker and Marlene G. Becker, individually, and as Trustees of Becker Living Trust ("Lessor"), Gregory Morris ("Assignor"), and TJBC, LLC ("Assignee").

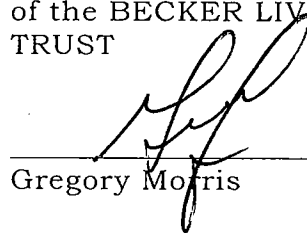
IN WITNESS WHEREOF, the parties have signed this Fifth Amendment of Lease as of the date first above written.



Marlene G. Becker,
Individually and as Trustee
of the BECKER LIVING
TRUST



Bernard B. Becker,
Individually and as Trustee
of the BECKER LIVING
TRUST


Gregory Morris

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

10250 Constellation Blvd., Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled **Notice of Sale of Estate Property** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* July 21, 2016, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On July 21, 2016, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on July 21, 2016, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Attorney Service

The Honorable Sandra Klein
U.S. Bankruptcy Court
255 E. Temple Street
Riverside, CA 92501

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

July 21, 2016
Date

Jason Klassi
Printed Name

/s/ Jason Klassi
Signature

2:16-bk-19299-SK Notice will be electronically mailed to:

John-Patrick M Fritz on behalf of Debtor TJBC, LLC
jpf@lnbyb.com, JPF.LNBYB@ecf.inforuptcy.com

Dare Law on behalf of U.S. Trustee United States Trustee (LA)
dare.law@usdoj.gov, ron.maroko@usdoj.gov

United States Trustee (LA)
ustpreion16.la.ecf@usdoj.gov